

File #:

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Serial Scope:

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Internal 2/3/76

The Attorney General

U. S. SENATE SELECT COMMITTEE
ON INTELLIGENCE ACTIVITIES
(SSC)

Re SSC let 1/7/76 request certain materials from
FBI. Enclosed for ur approval & forwarding to SSC
is original of memo which constitutes Bu response
to request for material set forth in paragraph two
of let. 3 copy of this memo is being furnished
for ur records, along with set of materials to be
delivered to SSC with memo.

62-116395-1474

ENC 2
38

WFO:pal 2/3/76

The Attorney General

U. S. SENATE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES (SSC)

Re SSC let 1/7/76 request certain materials from FBI. Enclosed for ur approval & forwarding to SSC is original of memo which constitutes BA response to request for material set forth in paragraph two of 1st let. A copy of this memo is being furnished for ur records, along with set of materials to be delivered to SSC with memo.

SSC request 1/7/76
re changing of Section 87, MOI

Retain for file

1474

UNITED STATES GOVERNMENT

Memorandum

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TO : Mr. C. D. Brennan^B

DATE: 3/18/71

FROM : R. D. Cotter *RCM Security jurisdiction*

SUBJECT: DEPARTMENT OF JUSTICE GUIDELINES
ON INTELLIGENCE GATHERING ACTIVITIES

Article in the New York "Daily News," attached, reported that a top Justice Department official had admitted that FBI Agents follow no "specific, published, or regular guidelines when they spy on civilians they suspect of being trouble makers." This refers to inquiries being conducted by the Senate Constitutional Rights Subcommittee. The article further reports that "the gathering of intelligence on civilians" was turned over to the Justice Department, particularly the FBI, following revelations that the Army had "overstepped its bounds" in gathering intelligence on civilians. It is further reported that Senator Ted Kennedy was told that the FBI did not have any specific regular guidelines to follow, only "some internal working papers." Kennedy then told a Justice representative that Justice efforts fall short in protecting the rights and liberties of the American people.

The Director inquired "What about this? H."

What are they?
In the first place, FBI Agents do follow specific published guidelines in conducting investigations. Our investigations are based on Executive Orders issued by the President and on specific statutes passed by Congress. We do not conduct random "spying" on civilians. As a matter of fact, our investigations are controlled to insure we do not invade the constitutional rights of citizens. For example, in the field of technical surveillances no installation of technical devices can be made until approved by the Attorney General. We neither investigate nor report on legitimate activities of any group.

Enclosure

BAW:ekn

(13)

REC-21 62-667-7-181-1
This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

1 - Mr. W. C. Sullivan

1 - Mr. J. P. Mohr

1 - Mr. Bishop

1 - Mr. Rosen

1 - Mr. Gale

1 - Mr. Dalbey

1 - Mr. C. D. Brennan

1 - Mr. Shackelford

1 - Mr. G. C. Moore

1 - Mr. Gray

1 - Mr. R. D. Cotter

1 - Mr. Wells

59 MAY 24 1971 MAY 24 1971

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Memorandum to Mr. C. D. Brennan
RE: DEPARTMENT OF JUSTICE GUIDELINES
ON INTELLIGENCE GATHERING ACTIVITIES

Concerning the allegation that the FBI assumed Army's "function" of "spying on civilians," this is not true. You will recall that the military received wide criticism for their activities in investigating and compiling files on civilians. As a result, the Defense Department sharply curtailed military intelligence gathering activities. This did not increase the Bureau's responsibilities or activities. We assumed no Army function. As set out above, our responsibilities are based on Executive Orders and statutes.

While it is true that the Department of Justice does not furnish specific published general guidelines to the Bureau, it is also true that the Department does review this Bureau's work. In all cases information developed by our investigations is furnished to the Department for its consideration as to violation of Federal statutes and possible prosecution.

Senator Kennedy's statement shows his animosity to the Bureau. It implies that the Bureau is "violating the civil rights of the American people." This, of course, is utterly without foundation.

ACTION:

For information.

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**FBI'S
 SNOOPS CARRY
 NO GUIDELINES**

BY FRANK VAN RIPER

Washington, March 17 (NEWS Bureau) — A top Justice Department official admitted today that FBI agents follow no "specific, published, or regular guidelines" when they spy on civilians they suspect of being troublemakers.

This disclosure from Robert Mardian, assistant attorney general for internal security, brought a series of angry charges from Sens. Sam J. Ervin (D-N.C.) and Edward M. Kennedy (D-Mass.).

Mardian appeared before Ervin's constitutional rights subcommittee along with William H. Rehnquist, assistant attorney general in the Justice Department's office of legal counsel. Mardian was questioned sharply about the procedures followed by the department to gather intelligence on civilians. That function has been handed over to the Justice Department—the FBI in particular—following revelations that the government's previous civilian snoopers, Army intelligence, allegedly overstepping its bounds in putting together dossiers on suspected troublemakers.

Rehnquist, who during his last appearance before Ervin's panel maintained that the government has the right to spy on anybody it wants to whenever it wants to, conceded that some spying by government agents was "reprehensible" and "illegitimate."

"But I don't think it violates constitutional rights," Rehnquist said.

Ervin Disagrees

Ervin, generally acknowledged by his Senate colleagues as an expert on constitutional law, didn't agree.

"There isn't a syllable (in the Constitution) that gives the government the right to spy on civilians," he said, proceeding to give Rehnquist a lecture he apparently had been saving since the official's last appearance.

"If I understand your position, the Government could put a tail on me, follow me everywhere I went and would have no legal remedy," Ervin said.

"I don't think the President has the power to use the military to perform the function of a national police force," Ervin went on, alluding to previous testimony from former Army intelligence agents that they spied on hundreds of individuals including public figures like then-senatorial candidate Adlai Stevenson 3d.

Kennedy questioned Mardian on how the Justice Department hoped to avoid the "abuses" attributed to the Army now that it has the responsibility of keeping tabs on civilians.

When Kennedy was told that the FBI did not have any "specific, published, regular guidelines" to follow — only "some internal working papers" and "the same judgmental factors of any reasonable human being," the Senator declared:

"It appears you are just washing your hands of any responsibility for the surveillance that has taken place in the Justice Department . . . your efforts fall woefully short in protecting the rights and liberties which the American people believe are theirs."



Sen. Sam Ervin Sen. Edward Kennedy
 Question Justice aide on spying

What about this?

- The Washington Post Times Herald _____
- The Washington Daily News _____
- The Evening Star (Washington) _____
- The Sunday Star (Washington) _____
- Daily News (New York) 48
- Sunday News (New York) _____
- New York Post _____
- The New York Times _____
- The Daily World _____
- The New Leader _____
- The Wall Street Journal _____
- The National Observer _____
- People's World _____

Date Mar 18 1971

REC-21

67-467-1819

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. C. D. Brennan

DATE: March 20, 1971

FROM : Mr. R. D. Cotter

- 1 - Mr. W. C. Sullivan
- 1 - Mr. J. P. Mohr
- 1 - Mr. T. E. Bishop

- 1 - Mr. A. Rosen
- 1 - Mr. Gale
- 1 - Mr. Dalbey
- 1 - Mr. Brennan

SUBJECT: GUIDELINES FOR FBI INVESTIGATIONS

- 1 - Mr. Shackelford
- 1 - Mr. G.C. Moore

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My memorandum 3/18/71 stated that FBI Agents follow specific published guidelines in conducting investigations. Mr. Tolson inquired "What are they?"

Guidelines in conducting investigations are furnished to the field in the "Manual of Instructions," the "F.B.I. Handbook," and in letters to All Special Agents in Charge. In addition, guidance is also given the field in Bureau communications on specific cases.

The "Manual of Instructions" sets out specific guidelines for all matters investigated by the Bureau. For example, Section 122 covers investigation of racial matters, including the investigation of Klan and white hate groups. Section 87 furnishes specific guidelines for the security investigation of groups and individuals. In addition to setting out desired investigation on these matters, the "Manual of Instructions," also sets out restrictions on investigations. For example, in regard to white hate groups and Klan matters it is specifically pointed out that extreme care must be exercised to insure that no investigation is conducted of groups or individuals who merely support unpopular causes and that no investigation must be conducted which will infringe on the Constitutional freedoms of speech, press or assembly. Investigation is confined to organizations and individuals actually or allegedly using force or violence to deny others their Constitutional rights.

Security investigations contain many restrictions. For example, sources and informants connected with an institution of learning cannot be contacted on campus. Bureau authority is required prior to developing such sources. Photographic surveillances in security matters must receive Bureau approval.

1 - Mr. A. W. Gray

1 - Mr. R. D. Cotter

1 - Mr. Wells

BAW:as

REC-21

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Page 8, 4 1971

UNRECORDED COPY FILED IN

Memorandum to Mr. C. D. Brennan
RE: GUIDELINES FOR FBI INVESTIGATIONS

Bureau authority is necessary prior to investigating communist infiltration of a political organization. In the case of the investigation of communist infiltration of a labor union, the instructions clearly point out that the Bureau is not interested in legitimate union activities.

Our instructions also contain numerous other restrictions to protect the rights of individuals. For example, no technical surveillance can be instituted without Bureau authority; Agents cannot engage in improper, illegal, or unethical tactics in developing information; Agents cannot misuse their credentials; Agents cannot visit trials or other court hearings merely for the purpose of satisfying personal curiosity; when testifying as a witness, Agents are instructed to testify clearly or without bias or exaggeration; critical complaints concerning Bureau personnel must be thoroughly investigated; and personnel cannot engage in any conduct prejudicial to the Government.

ACTION:

For information.

[Handwritten initials: JH] *[Handwritten checkmark]* *[Handwritten initials: WCL]* *[Handwritten initials: WBS]* *[Handwritten initials: JDS]* *[Handwritten signature: JAM]*

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. C. D. Brennan

FROM : R. D. Cotter

SUBJECT : GUIDELINES FOR FBI INVESTIGATIONS

- 1 - Mr. W.C. Sullivan
- 1 - Mr. Mohr
- 1 - Mr. Bishop

DATE: 3/25/71

- 1 - Mr. Rosen
- 1 - Mr. Gale
- 1 - Mr. Dalbey
- 1 - Mr. C.D. Brennan
- 1 - Mr. Shackelford
- 1 - Mr. G.C. Moore
- 1 - Mr. Branigan
- 1 - Mr. Wannall
- 1 - Mr. Gray
- 1 - Mr. Cotter
- 1 - Mr. Wells

Tolson _____
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The Director has requested a memorandum concerning guidelines for FBI investigations and, as noted on attached article from "The Washington Post," has stated we must get together all our guidelines.

Guidelines in conducting investigations are furnished to the field in a "Manual of Instructions," the "F.B.I. Handbook," and in Letters to all Special Agents in Charge. In addition, guidance is also given to the field in Bureau communications on specific cases. The Bureau's jurisdiction to conduct investigations arises from statutes and presidential directives.

There are attached memoranda from the Domestic Intelligence Division, the Special Investigative Division and the General Investigative Division setting out specific guidelines under which investigations are conducted by those Divisions. It should be noted that our guidelines on the conducting of investigations in addition to setting out the investigation desired in each matter also contains restrictions to insure that we do not violate the constitutional rights of any individual and to prevent investigations from becoming "fishing expeditions."

For example, in security investigations, no investigation is conducted merely because an individual or group supports an unpopular cause. Bureau authority is required prior to conducting a photographic surveillance, prior to investigating the communist infiltration of a political organization, and prior to developing sources connected with an institution of learning. Sources connected with an institution of learning cannot be contacted on the campus and individuals under the age of 18 cannot be developed as sources. We do not investigate ambassadors or heads of permanent

Enclosures

61 MAY 15 1971
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ENCLOSURE

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REC 70

5 APR 27 1971

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This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

Memo to Mr. Brennan
RE: GUIDELINES FOR FBI INVESTIGATIONS

missions to the United Nations. Department of State clearance and Bureau authority are necessary prior to the investigation of officials and diplomatic representatives of foreign countries. No surveillances are conducted at the White House, the Capitol, the Supreme Court, or the House and Senate Office Buildings. Our investigation of black nationalist groups and individuals is limited to those who take an extremist anti-U.S. Government position and whose activities have or may involve them in disturbances or subversive activities. We do not investigate individuals on the basis of their membership in organizations which do not advocate the use of force.

Concerning criminal intelligence and organized crime matters, investigations are conducted to develop and maintain current intelligence on the activities of organized crime and the development of substantive cases against individual racket figures. These investigations are highly selective and are concentrated on the leaders of organized crime and their associates. Close supervision is afforded. The use of court-approved electronic surveillances requires the approval of the Director and the Attorney General (AG) and the ultimate authorization by court order.

In the matter of applicant investigations, specific guidelines have been developed to protect the rights of individuals. Favorable information concerning an individual must be obtained, as well as unfavorable; investigation is limited to checks of pertinent records and interviews of individuals in a position to furnish relevant information; persons furnishing derogatory information are requested to furnish a signed statement; we make no evaluation or recommendation concerning the applicant.

Our investigative jurisdiction in criminal cases is based on specific violations of Federal laws. Investigations are conducted when information is received indicating a violation of a Federal law within our investigative jurisdiction has occurred. The results of our investigations are submitted to the United States Attorneys or the Department of Justice to determine whether prosecutive action is justified. The course of prosecutive action is determined by the United States Attorney or the Department of Justice. A decision may be made to present the case to a Federal grand jury or whether the facts justify the arrest of the subject. When the subject is arrested it is on the basis of authorized prosecution and the issuance of a warrant. When the subject is arrested he is brought before the nearest Commissioner or Magistrate or Federal Judge in accordance with established rules of Federal criminal procedure and the law.

Memo to Mr. Brennan
RE: GUIDELINES FOR FBI INVESTIGATIONS

Requests for FBI investigation in selected civil matters also are received from the Department and/or the United States Attorneys in cases in which the United States is a party in interest and are handled in accordance with guidelines furnished by the Department. Civil rights, election laws, and antiriot law investigations are handled in strict conformity with detailed guidelines furnished by the Department.

In addition to these, our guidelines contain numerous other restrictions which apply to all phases of our work. For example, no technical surveillance is instituted without Bureau and Departmental authority; Agents cannot engage in improper or unethical tactics; Agents must testify in court clearly and without bias and critical complaints concerning Bureau personnel must be thoroughly investigated.

Authority to arrest fugitives is statutory. U. S. Code empowers Agents to make arrests and carry firearms and the Bureau's policy is to only use that force which is absolutely necessary to affect the arrest of the person to be arrested and show due regard for the safety of the arresting officers and bystanders. Our guidelines are that Agents are not to shoot any person except for the purpose of self defense.

ACTION:

For information.

[Handwritten signatures and initials: JLS, WLP, MB, WBS, and others]

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ENCLOSURE

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RACIAL MATTERS

Guidelines for these investigations are set forth in Section 122 of the Manual of Instructions. This Section sets out guidelines for investigation of klan and white hate groups and individuals, the developing of intelligence concerning racial developments and disorders, and the investigation of black nationalist organizations.

Concerning the investigation of klan and white hate group matters, investigation is limited to groups and individuals who have adopted the policy or have actually or allegedly conspired or committed acts of violence to deny others their constitutional rights. We specifically point out that investigation is not to be conducted merely because a group or an individual supports unpopular causes. Officials at or above the state level of these groups cannot be interviewed without Bureau authority. Individuals employed in the news media, educational, or the radio or television industry cannot be interviewed without Bureau authority.

Our investigation of black nationalist groups and **individuals** is limited to those individuals and organizations that take an extremist anti-United States Government position and whose activities have or may involve them in disturbances and/or subversive activities. Bureau authority must be obtained prior to interviews of leaders of such groups or of individuals who are connected with civil rights organizations, educational institutions, news media, and religious groups. Bureau authority is also required prior to interview with individuals affiliated with foreign powers. Instructions in Section 87 of the Manual of Instructions dealing with the investigation of subversive organizations and individuals are also followed in these investigations.

Information does not pertain to Section 87, MOI.

DEVELOPMENT OF INFORMANTS

Development of informants in security matters is handled under Section 107 of the Manual of Instructions. Development of racial informants and sources is handled under Section 130 of the Manual of Instructions.

A discreet background inquiry is made on individuals being developed as informants. All informants are advised that they are not Bureau employees and that their assistance is strictly voluntary. It is also stressed that the informant's relationship with the Bureau is to be kept confidential. If the informant is connected with a labor union, it is stressed that the Bureau is not interested in legitimate union activities and he is not to report on them. Informants who are connected with institutions of learning, such as students, are not contacted on the campus. Individuals under the age of 18 are not developed as security informants. In addition, each informant must be approved by the Bureau.

Information does not pertain to Section 87, MOI.

INTERNAL SECURITY - NATIONALISTIC TENDENCY

Guidelines for these investigations are set out in Section 105 of the Manual of Instructions. Basically, these investigations concern foreign intelligence matters, including Soviets and Cubans. Investigations are initiated when information is received indicating subversive or intelligence activity in the United States on the part of an individual or an organization having definite foreign interests or connections.

Our guidelines provide that ambassadors and the heads of permanent missions to the United Nations are not to be investigated. Bureau authority is required to interview any individual who is employed in the news media, entertainment or religious field; is a Federal, state or local official; a labor leader; connected with a foreign government establishment, has diplomatic status, or is employed by the United Nations or other international organizations; or is employed by an institution of learning.

In addition, Department of State clearance and Bureau authority is necessary prior to interview of a diplomatic courier or the active investigation of officials and diplomatic representatives of foreign countries. Interview of students from communist countries is prohibited without Bureau authority.

Investigation is not initiated concerning contacts with communist officials if the person doing the contacting is a member of Congress or the Supreme Court, is an official representative of other countries or is a student of the high school or below level. No physical surveillances may be conducted at the White House, the Capitol, the Supreme Court, or the House and Senate Office Buildings without specific authority from the Bureau.

Information does not pertain to Section 87, M.I.

SECURITY INVESTIGATIONS OF GROUPS AND INDIVIDUALS

Guidelines for these investigations are set out in Section 87 of the Manual of Instructions. Basically, the investigations are for the purpose of determining the identity and activities of groups and individuals who are a threat to the internal security of the United States.

Guidelines specifically prohibit photographic surveillances without Bureau authority; investigation of political organizations without Bureau authority; investigation of organizations connected with institutions of learning without Bureau authority; investigation of a noncommunist organization which is communist infiltrated without Bureau authority; investigations based on membership in organizations which do not advocate the use of force; the investigation of faculty members without Bureau authority; and the interview of students, faculty members or employees of institutions of learning without Bureau authority.

In addition to these prohibitions, sources who are students or employees of institutions of learning cannot be contacted on the campus and investigations are not to be conducted with local law enforcement agencies without Bureau authority.

ESPIONAGE

Guidelines for espionage investigations are contained in Section 36, Manual of Instructions. Our investigations include both the investigations of violations of the espionage and related statutes for prosecutive purposes and the gathering of counterintelligence information. The principal goal of our investigations is to provide adequate protection to our national defense.

Investigation of diplomatic or other foreign official or personnel, including persons who are employees of international organizations, cannot be instituted without prior Bureau authority. Investigations must be complete, thorough, and expeditiously handled and the Bureau kept aware of all developments. As a general rule, espionage subjects cannot be interviewed without prior Bureau authority.

We make no investigation of the administrative misplacement, misfiling, or a loss in transit of classified documents.

Information does not apply to Section 87, MOI.

CRIMINAL INTELLIGENCE
AND
ORGANIZED CRIME

These investigations are divided into two principal categories: (1) the development and maintenance of complete and current intelligence on the activities of organized crime in this country, and (2) the development of substantive cases against individual racket figures, making use of various Federal statutes providing the FBI a jurisdictional basis in this specialized area of criminal activity.

Of necessity the Bureau's organized crime program has been carried on with a considerable degree of selectivity, in that there are literally tens of thousands of individuals in this country whose daily pursuits involve the promotion of some form of organized crime. Therefore, we have concentrated on the leaders of organized crime and their associates on whom we have developed specific Federal violations. In concentrating on the control elements in organized crime, such cases receive close supervision, with continuing central direction from Bureau Headquarters.

The more sensitive the investigative function, the more attention is afforded, particularly in our use of court-approved electronic surveillance. In conformity with Title III of the Omnibus Crime Control and Safe Streets Act of 1968, this technique is utilized only after the Director's referral of individual requests to the Attorney General for his approval, and ultimate authorization by court order.

All of our substantive cases, including those under Federal antigambling statutes, Extortionate Credit Transaction violations and Racketeer Influenced and Corrupt Organization matters, are, as noted above, restricted to the more important criminal operations in these categories, and receive strict scrutiny both in the field and at Headquarters in conformity with carefully prescribed standards for investigative procedures. These cases are presented to United States Attorneys or Departmental Strike Force Attorneys on a timely basis, and we provide regular reports on the progress of these investigative matters both to United States Attorneys and Strike Force Attorneys in the field and to the Department.

Information does not pertain to Section 87, m.o.I.

GUIDELINES
SELECTIVE SERVICE INVESTIGATIONS

At the request of United States Attorneys, the FBI conducts investigations to determine the willful nature of alleged violations of the Military Selective Service Act. Other reported criminal violations coming within the scope of the Act, Title 50 Appendix, United States Code, are investigated for the purpose of promptly presenting the facts to the United States Attorney in order that a determination can be made as to whether the facts developed warrant Federal prosecution.

Information does not pertain to Section 87, mOI.

- 8 -

GUIDELINES
FUGITIVE INVESTIGATIONS

Authority to arrest individuals is statutory. Title 18, United States Code (USC), Section 3052, empowers FBI Agents to make arrests and to carry firearms. The policy of the FBI is to only use that force which is absolutely necessary to effect the arrest with due consideration for the safety of the person to be arrested, the arresting officers, and bystanders. In spite of the existence of facts which might justify the shooting of a fleeing person, it is the FBI policy that Agents are not to shoot any person except for purpose of self-defense.

In addition to conducting investigations to locate individuals who have violated laws within the jurisdiction of the FBI, such as bank robbery, kidnaping, extortion, the FBI is empowered by statute, Title 18, USC, Section 1073, to locate fugitives at the request of state and local authorities when such fugitives have been charged in a felony warrant and there is some evidence of interstate flight.

At the specific request of the various branches of the military, the FBI conducts investigations to locate persons charged with desertion from the armed forces. Authority to make arrests of such persons is found in Title 10, USC, Section 808.

Information does not pertain to Section 87, MOI.

EMPLOYEES SECURITY AND SPECIAL INQUIRY INVESTIGATIONS

FBI conducts employee security investigations of applicants or employees of Federal Government and United States citizens employed by United Nations pursuant to and in strict conformance with specific United States laws (Atomic Energy Act of 1954; Arms Control and Disarmament Act; Public Law 298) or Executive Order (EO 10450 and EO 10422). In addition to guidelines stated in those laws and Executive Orders, opinions have been solicited from the Department of Justice over the years as to whether connection with particular organizations or other allegations justify initiation of investigation.

By request or agreement, FBI also conducts applicant investigations of Presidential appointees, White House staff members, Departmental employees and at request of cabinet members and certain Congressional Committees.

All of these investigations are governed by further specific guidelines directed toward protecting the rights of individuals.

Those primarily applicable are:

Favorable information must be obtained as well as unfavorable.

Investigation is limited to checks of appropriate and pertinent records and to interviews of individuals in a position to furnish relevant information.

Persons furnishing derogatory information are requested to furnish a signed statement; if they decline, report so states.

Identification of individuals must be established with respect to any derogatory information concerning them.

If pertinent derogatory information is received regarding close relatives or associates of applicant/employee, degree of association must be determined.

All persons interviewed are advised inquiry is of personnel type to preclude misinterpretation that criminal investigation is involved.

FBI makes no evaluation or recommendation regarding applicant/employee. Reports to employing agency contain all the facts and only the facts collected.

Information does not pertain to Section 87, no I.
- 96 -

GUIDELINES
GENERAL INVESTIGATIVE DIVISION

Our investigative jurisdiction ^{in criminal cases} is based on specific violations of Federal laws. Investigations are conducted when information is received indicating a violation of a Federal law within our investigative jurisdiction has occurred. The results of our investigations are submitted to the United States Attorneys or the Department of Justice to determine whether prosecutive action is justified. The course of prosecutive action is determined by the United States Attorney or the Department of Justice. A decision may be made to present the case to a Federal grand jury or whether the facts justify the arrest of the subject. When the subject is arrested it is on the basis of authorized prosecution and the issuance of a warrant. When the subject is arrested he is brought before the nearest Commissioner or Magistrate or Federal Judge in accordance with established rules of Federal criminal procedure and the law.

Requests for FBI investigation in selected civil matters also are received from the Department and/or the United States Attorneys in cases in which the United States is a party in interest and are handled in accordance with guidelines furnished by the Department.

Civil rights, election laws, and antiriot law investigations are handled in strict conformity with detailed guidelines furnished by the Department.

Information does not pertain to Section 87, MOI.

Senators' Task

Seeking Standards For Surveillance

By Alan Barth

SENATOR Ervin's Constitutional Rights Subcommittee — and especially Senator Kennedy—gave Assistant Attorney General Robert C. Mardian, the new head of the Justice Department's Internal Security Division, a hard time the other day. And vice versa. Senator Kennedy did some rather rough hectoring of the witness in an effort to find out from him what standards, if any, the Justice Department applies in its surveillance of persons it deems threatening to internal security. Mr. Mardian gave a kind of compound answer which seemed to say that the department doesn't engage in any surveillance, that when it does engage in surveillance it doesn't do any more of it than it should do and that it has no formal standards for doing what it does do or doesn't do.

There was a mildly amusing Freudian slip in one of Mr. Mardian's responses to Senator Kennedy. The exchange, quoting from the transcript, went like this.

Mr. Mardian: We do not engage in, Senators, as I said, surveillance ourselves. The only information we have available to us comes in the form of FBI reports of actions, civil disorders.

Senator Kennedy: The Justice Department doesn't engage in any surveillance at all.

Mr. Mardian: Well, Mr. Rehnquist reminds me that the FBI is a part of the Justice Department . . .

OF COURSE, that is a perfectly understandable lapse of memory on the part of an Assistant Attorney General. Even Attorneys General have forgotten that the FBI is a part of the Justice Department. The FBI just grewed like—well, not like Topsy, but more like, say, Jack's beanstalk or Aladdin's genie.

When Attorney General Harlan Stone created the FBI and made J. Edgar Hoover director of it in 1924, he declared in very positive terms: "The Bureau of Investigation is not concerned with political or other opinions of individuals. It is concerned only with their conduct and then only with such as is forbidden by the laws of the United States. When a police system passes beyond these limits, it is dangerous to the proper administration of justice and to human liberty which it should be our first concern to cherish."

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*We must get together
to once all our guide
lines.*

H

The Washington Post Times Herald A-18
The Washington Daily News _____
The Evening Star (Washington) _____
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The Daily World _____
The New Leader _____
The Wall Street Journal _____
The National Observer _____
People's World _____

ENCLOSURE

62-66727-181 MAR 24 1971

APR 27 1971

COPY MADE FOR MR. TOLSON

That limited view of the FBI's role did not last very long. In the Second World War, President Roosevelt gave the bureau responsibility for safeguarding the country against espionage and sabotage, which soon led it to look askance at everyone whose political opinions veered from the true north of absolute orthodoxy. And after the war, President Truman made it responsible for investigating the loyalty or suitability of federal employees, which led it to amass vast numbers of dossiers on citizens whose conduct was not in any way forbidden by the laws of the United States.

And now the FBI appears to have taken over from the Army the delicate task of averting uprisings and disorders and bomb plots and schemes to kidnap public officials, an enterprise in which the Attorney General says it doesn't need to stop at anything, not even the constitutional command to get a warrant of some sort before tapping the telephones or bugging the homes of persons whose conduct has not been forbidden by the laws of the United States.

WELL, that's quite a lot of police power in a country which considers the idea of a police state abhorrent—and especially at a time when technology has perfected automated memories called computers which learn everything and forget nothing, whether it's right or wrong.

So there's a good deal of rationality behind the Constitutional Rights Subcommittee's feeling that there ought to be a law limiting the reach and range of official investigation. Such a law is admittedly very difficult to draw. Prevention of injury to the community being a vital aspect of police protection, it will hardly do to say that investigation of suspected persons can begin only after they have committed some crime—or only after there is probable cause to believe them guilty of a crime.

The Justice Department ought to be working hand in hand with the Constitutional Rights Subcommittee to devise standards for official surveillance of free citizens. Clearly, there is need for rigid rules to keep collected information from falling into unauthorized hands. Clearly, there ought to be an opportunity for individuals to see derogatory information in their files and to rebut it or correct it if they can. Clearly, there ought to be avoidance of investigation on purely political grounds. Clearly, the investigators ought to be required to conform faithfully to the law.

Drawing legislation on the basis of information amassed at public hearings is the essential business of congressional committees. The Constitutional Rights Subcommittee is engaged in a task that goes to the foundations of a free society.

What is the danger to human liberty that Attorney General Stone warned against when he prescribed his limits for the FBI? Last week the Evening Star published on its front page a story by Miles Benson of the Newhouse News Service reporting that Sen. George S. McGovern, Sen. Harold E. Hughes, Sen. Birch Bayh, Columnist Frank Mankiewicz, NAACP representative Clarence Mitchell, Attorney Joseph L. Rauh Jr. all believe their telephones are tapped. A lot of other people living in the Capital of the United States have the same anxiety. They are not all paranoiacs.

"When people fear surveillance, whether it exists or not, when they grow afraid to speak their minds and hearts freely to their government or to anyone else," said Senator Sam Ervin, "then we shall cease to be a free society."

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Tolson

DATE: 3/31/71

FROM : D. J. Dalbey

SUBJECT: GUIDELINES FOR FBI INVESTIGATIONS

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Sullivan _____
Mohr _____
Bishop _____
Brennan, C.D. _____
Callahan _____
Casper _____
Conrad _____
Dalbey _____
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Re memo 3/25/71, from Mr. Cotter to Mr. Brennan, same caption, attaching a summary of the guidelines for FBI investigations. The Director's attached routing slip asked "Shouldn't we have these all drawn together into a separate section of our manual? H."

All these guidelines can be placed in one special section and we recommend that this be done. The section on guidelines should be the first in the manual, and all instructions to new Agents and others should take the position that the guidelines are foundation policy and should be understood before moving into any type of investigation in particular. These guidelines should appear in both the Manual of Instructions and the Handbook.

RECOMMENDATION:

That referenced memorandum on guidelines be referred to the Training Division for printing and for insertion in the manuals as the first chapter.

- 1 Mr. Mohr
- 1 - Mr. Casper

2 ENCLOSURE

EX-103

REC 70

62-66727-1817

DJD:mfd
(4)

APR 27 1971

Handed and
Manual of Instruction
JER:ao

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April 9, 1971

PROPOSED CHANGES FOR THE MANUAL OF INSTRUCTIONS

The following should be inserted in the Table of Contents of Volume I above and with same margin as Section I.

PREFACE. GUIDELINES FOR FBI INVESTIGATIONS

The following should be inserted as a Preface section in Volume I immediately after the Table of Contents and ahead of Section I.

PREFACE

GUIDELINES FOR FBI INVESTIGATIONS.

Fundamental to all investigations by the FBI is the need to protect the constitutional rights of any individual while still thoroughly and expeditiously discharging those responsibilities with which it is charged by statutes and Directives of the President and the Attorney General. The FBI is a fact-finding agency which seeks with equal vigor to gather evidence which will aid in the successful prosecution, or establish the innocence, of alleged violators of laws of the United States or of those who are accused of seeking by force to subvert or overthrow the Government of the United States. The FBI makes no determination of the guilt or innocence of any individual or group so accused.

To this end, guidelines have been established to be followed in the investigation of cases falling within the jurisdiction of the FBI, to prevent unwarranted investigations and invasions of the constitutional rights of any person.

INTERNAL SECURITY INVESTIGATIONS

For example, in matters affecting the internal security of the United States, no investigation is conducted merely because an individual or group supports an unpopular cause, or petitions the Government for redress of grievances, nor do we investigate individuals solely on the

NOTE: Based on memorandum D. J. Dalbey to Mr. Tolson, DJD:mfd, dated 3/31/71, re "Guidelines for FBI Investigations."

SAME MATERIAL TO BE
ADDED TO FBI HANDBOOK

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Proposed Change in the Manual of Instructions
for Special Agents of the FBI

basis of their membership in organizations which do not seek the overthrow of the United States Government by the use of force or violence. In addition, no electronic surveillance may be instituted without the specific authority of the Attorney General. Explicit Bureau authority must be obtained prior to conducting a photographic surveillance and prior to investigating the communist infiltration of a political organization. Bureau authority must be obtained prior to conducting investigation at an institution of learning. Bureau authority must also be obtained prior to the investigation of faculty members or the interviewing of students, faculty members, or employees of institutions of learning. No investigations are conducted of ambassadors or heads of permanent missions to the United Nations. Both Department of State clearances and Bureau authority are necessary prior to the investigation of officials and diplomatic representatives of foreign countries. Our investigations of groups and individuals are limited to those who take an extremist anti-United States Government position in that their actions indicate involvement in assassinations, physical attacks on persons or property, or other activities endangering the national security.

Criminal Intelligence - Organized Crime

Where matters of a criminal intelligence nature or organized crime are concerned, investigations are conducted to develop and maintain current information on the activities of organized crime in general, and to develop substantive cases against individual racket figures. These investigations are highly selective and are concentrated on the leaders of organized crime and their reported associates. Any electronic surveillance used in these investigations requires approval of the Bureau, the Attorney General, and authorization by a court order.

Does not pertain to S 87

Proposed Change in the Manual of Instructions for Special Agents of the FBI

Applicant-type Matters

In the area of applicant investigations, specific standards have been established to protect the rights of individuals. All relevant information, both favorable and unfavorable, obtained concerning an individual must be duly reported; investigation is limited to checks of pertinent records and interviews of persons in a position to furnish relevant information; persons furnishing derogatory information are requested to furnish a signed statement. The FBI makes no evaluation or recommendation to the requesting agency concerning the applicant.

General Criminal and Civil Matters

Our investigative jurisdiction in criminal cases is based on specific violations of Federal laws. Investigations are conducted when information is received indicating a violation of a Federal law, over which we have been given investigative jurisdiction, has occurred. Results of our investigations are furnished to United States Attorneys or the Department of Justice for determination of the course of any prosecutive action. The decision may be made to present the case to a Federal Grand Jury or, if the facts so justify, to arrest the subject in which latter instance the arrest is made on the basis of authorized prosecution and the issuance of a warrant. Upon arrest, the subject must be brought before the nearest United States Magistrate or Federal Judge in accordance with established rules of Federal criminal procedure.

Requests for FBI investigations in selected civil matters in which the United States is or may be a party in interest are received from the United States Attorneys and/or the Department of Justice. These are handled in strict conformity with guidelines furnished by the Department of Justice, as are also investigations of violations of the civil rights antiriot, election laws, and antitrust laws.

General Principles

In addition to these principles, numerous other restrictions apply to all phases of our work. For example, our authority to arrest fugitives is statutory. The United States Code empowers Special Agents to make arrests and carry firearms but FBI policy further requires that only that force may be used which is necessary to effect arrest with due regard being observed for the safety of the arresting officers and others.

Does not pertain to S 87

Proposed Change in the Manual of Instructions
for Special Agents of the FBI

Special Agents are not permitted to shoot anyone except in self-defense. No surveillances are conducted in the White House, the Capitol, the Supreme Court, or the House and Senate Office Buildings. No surveillance, electronic or otherwise, may be instituted on any member of Congress, any Justice or Judge, or any principal functionary of the Executive Branch. Our Special Agents may not engage in entrapment or any other improper, illegal, or unethical tactics in procuring information or evidence; any critical complaints concerning FBI personnel must be thoroughly investigated; any testimony by a Special Agent in court must be given clearly and without bias or embellishment.

The foregoing is a general statement of guidelines for FBI investigations. All investigative personnel must follow these rules.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. E. S. Miller ^{ESB}

FROM : T. J. Smith ^{TJS}

SUBJECT: COMMITTEE FOR PUBLIC JUSTICE

1 - Mr. Rosen
1 - Mr. Mohr
1 - Mr. Bishop

DATE: 10/28/71

1 - Crime Records Division
(Attn: M. A. Jones)
1 - Mr. E.S. Miller
1 - Mr. T.J. Smith
1 - Mr. Recer
1 - Mr. J.M. Sizoo

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Reference memorandum M. A. Jones to Mr. Bishop, 10/27/71, same caption. Set forth below is review of "The Scope and Basis of FBI Domestic Intelligence Data Collection" by John T. Elliff, Assistant Professor of Politics, Brandeis University, Waltham, Massachusetts. This paper is to be submitted to captioned Committee's conference on the FBI to be held at Princeton, New Jersey, 10/29-31/71. Bufiles negative re Elliff who has written a soon-to-be-published book entitled "Crime, Dissent, and the Attorney General."

Purpose of Paper

While moderate in its tone and subdued in its anti-FBI stand, this 70-page study is aimed at encouraging a public inquiry by Congress into the FBI's domestic intelligence data collection and thus, will serve only to add fuel to the fires of vicious and self-serving criticism against the Bureau. Elliff claims that only a public inquiry can "obtain sufficient access to relevant confidential materials" which would reveal FBI intelligence activities. Sources used by Elliff included documents stolen 3/8/71 from the former Media Resident Agency, Appropriations Testimony by the Director, "The FBI Story" by Don Whitehead, annual reports of the Attorney General, Justice Department memoranda and press releases, Presidential memoranda, court decisions, and books and articles on American justice.

Basis for FBI Domestic Intelligence Coverage

Elliff claims that the Department of Justice believes domestic intelligence coverage comes within the inherent powers of the President, deriving from the Constitution and not from grant by Congressional legislative authority, with the exception of intelligence data collected regarding protection of the President.

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EX-112

5-J.M. Sizoo
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10 NOV 1971

Memorandum for Mr. Miller
Re: Committee for Public Justice

Origin of Security Intelligence

As do most critics of the FBI, Elliff notes the Director was head of the General Intelligence Division in the "Palmer Raid" days. Elliff states that the Director later deplored tactics used to round up individuals at that time and was able to persuade the American Civil Liberties Union and Attorney General Harlan F. Stone of his sincerity in opposing excesses at the time of the "Palmer Raids." Elliff notes President Roosevelt's 9/6/40 memorandum and President Truman's directive of 1950 as authority for FBI intelligence collection activities. Elliff claims the FBI magnified President Roosevelt's 9/6/40 statement which called for local officials to furnish the FBI information received on espionage, counterespionage, sabotage, subversive activities, and violations of the neutrality laws into a definitive order serving what it considered its mission in intelligence gathering.

Scope of Security Intelligence

Noting the risk of describing the FBI's intelligence scope on the basis of available material, Elliff--obviously with tongue in cheek--denies trying to create the impression that the FBI has exceeded its Constitutional authority. He calls for illumination of aspects of the FBI not fully appreciated before "so we may make reasoned judgments and factual, constructive criticism." He lists the targets of FBI security intelligence coverage through the years as communists, communist front groups, Nazi-influenced and Fascist-type groups, the extremist New Left, and groups with international contacts subject to communist infiltration. He mentions existence of an index of persons considered detrimental to internal security during World War II as well as the current Security Index which he claims is used to identify persons who might threaten the President, while it previously existed for apprehension of potential sabotage subjects in future periods of national emergency. Elliff notes the FBI must exercise discretion on whether or not there are sufficient facts to report in matters involving internal security and on which Federal officials should receive such reports. He admits that the FBI seeks to eliminate subjectivity by reporting all available information, following prescribed procedures, and use of "by-the-book" patterns and terminology.

CONTINUED - OVER

Memorandum for Mr. Miller
To: Committee for Public Justice

Scope of Racial Intelligence

Elliff states that racial intelligence gathering is now half of the FBI's domestic intelligence mission, noting we give information on racial extremist matters to local authorities and the Department of Justice. From documents stolen at the former Media Resident Agency, he notes the FBI's ghetto informant program that seeks to uncover indications of possible racial disorders and he concludes that while wiretap coverage of extremist groups produces much extraneous material, wiretaps are, in fact, often the only way to obtain information regarding possible racial violence. Elliff also discusses the FBI's interest in black student groups and Klan activities pointing to instructions and recommendations from President Johnson and several study commissions for intelligence coverage needed to alert Government officials to possible racial disorders.

Elliff's Conclusions

Elliff snidey concludes that "a little fresh air is needed" in the form of periodic public scrutiny of the FBI. He claims that if fault is to be found it would not be in the FBI and the Director, but in the Attorneys General, Presidents and Congresses who gave power and responsibility to the FBI but failed to direct, guide, and control it.

Nine recommendations are presented by Elliff: (1) Establish Constitutional basis for domestic intelligence gathering; (2) consider separation of foreign counterespionage duties from domestic intelligence; (3) review standards for preparation and dissemination of domestic intelligence data; (4) establish permanent domestic intelligence advisory council; (5) scrutinize Justice Department's Internal Security Division; (6) make FBI give recommendations and draw conclusions on basis of intelligence data; (7) maintain strict discipline, inspections, and firm procedures in FBI intelligence work; (8) examine need for domestic intelligence data; and (9) insure that the Director's successor maintain internal control and morale, resist outside partisan pressures, and exemplify a true professional.

RECOMMENDATION:

For information.

[Handwritten initials: J, R, EM, and others]

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. E. S. Miller *EM*

FROM : T. J. Smith *TJS*

SUBJECT: GUIDELINES FOR SECURITY INVESTIGATIONS
OF INDIVIDUALS AND ORGANIZATIONS

1 - Mr. Rosen
1 - Mr. J. P. Mohr

DATE: 2/24/72

1 - Mr. Bishop
1 - Mr. Dalbey
1 - Mr. Cleveland
1 - Mr. E. S. Miller
1 - Mr. T.J. Smith

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"Washington Post" article on 2/24/72 stated that Deputy Attorney General Richard G. Kleindienst testified 2/23/72 that he is "not sure" what guidelines are used by the FBI in deciding to investigate an individual or organization. The Director noted "Prepare succinct memo to him on our guidelines."

The line of questioning which apparently gave rise to Kleindienst's statement regarding guidelines revolved around our security-type investigations. Therefore, a memorandum has been prepared along these lines and is attached.

The essence of the attached memorandum is that the FBI investigates all organizations which have as their basic objective the violent overthrow or destruction of the United States. Typical organizations, such as the Communist Party, USA; Socialist Workers Party; Progressive Labor Party; Black Panther Party and Students for a Democratic Society, are listed as examples. The obvious aims and purposes of the international communist movement are explained.

Responsibility and jurisdiction of the FBI under statutes and Presidential Directives relative to the national security are set out.

Circumstances under which security investigations of individuals are conducted are enumerated. These basically have to do with the fact that investigations are instituted when an individual has revolutionary, extremist or anarchistic beliefs, giving reason to believe the individual might commit acts inimical to the internal security in time of national emergency.

Also set forth are the fundamental principles that the FBI scrupulously safeguards the individual's constitutional rights and impartially gathers evidence not only to prosecute, but to prove the innocence of the individual. The fact is also

Enclosures *sent 2-28-72*

TJS:glw *glw*
(8)

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Memorandum to Mr. E. S. Miller
Re: Guidelines for Security Investigations
of Individuals and Organizations

noted that the FBI does not investigate persons espousing unpopular causes or beliefs or who hold membership in organizations which do not advocate violent overthrow of the U. S. Government. The fact that investigations are carefully supervised at all levels to assure constitutional rights are not jeopardized is also explained.

RECOMMENDATION:

That the attached letter with enclosed memorandum to the Deputy Attorney General be approved and sent.

OK
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Kleindienst Backs FBI

Probes

By Sanford J. Ungar
Washington Post Staff Writer

Deputy Attorney General Richard G. Kleindienst testified yesterday that he is "not sure" what guidelines are used by the FBI in deciding whether to investigate an individual or organization.

Kleindienst, whose nomination to become Attorney General is to be voted on today by the Senate Judiciary Committee, told the committee he has "a very fine working relationship" with FBI Director J. Edgar Hoover, but has been too busy over the past three years to pay detailed attention to the bureau.

If confirmed as Attorney General, Kleindienst told Sen. John V. Tunney (D-Calif.), "I will know more about the FBI than I do now."

He portrayed himself, however, as abundantly satisfied with the work of the bureau and said he was "confident" that Hoover would not order electronic surveillance of "anybody without the express written permission" of the Attorney General.

Kleindienst answered questions, mostly hostile ones from liberal Democratic senators, for four hours on the second day of his confirmation hearing.

At day's end, Committee chairman James O. Eastland (D-Miss.), who called an executive session for this morning, said, "I do not anticipate any votes against" Kleindienst or L. Patrick Gray III, President Nixon's nominee to become the new Deputy Attorney General.

Despite the hostile questioning from others, the only committee member who appeared to be wavering on whether to vote for Kleindienst was Edward M. Kennedy (D-Mass.).

Kennedy and Kleindienst took up much of yesterday's session with a debate over what the senator called "the course of the FBI in America over the past three years, and in the year to come."

Accusing the Nixon administration of fighting its "war on crime with speeches and press releases," Kennedy also questioned the Justice Department's priorities in using investigative tools.

He attacked decisions to prosecute Daniel Ellsberg for disclosing the top secret Pentagon Papers on the Vietnam war, and to use "flocks of agents and attorneys" in the case involving a purported autobiography of Howard Hughes, but not to convene a grand jury investigation into

the shooting deaths of four Kent State University students in May, 1970.

Kleindienst insisted, however, that the Justice Department and FBI "thoroughly investigated" the Kent State shootings before deciding not to prosecute the National Guardsmen.

He also defended Attorney General John N. Mitchell's refusal to permit congressional inspection of the FBI's report on the Kent State shootings.

The nominee argued the longest with Kennedy over arrest and detention procedures during the Mayday antiwar demonstrations in Washington last spring.

Kleindienst said that the Justice Department, which had anticipated only about 4,000 demonstrators on Monday, May 3, was completely surprised that "so many peo-

Prepare succinct memo to him on our guide lines

Security Investigations of Individuals - General

The Washington Post Times Herald A-6
The Washington Daily News _____
The Evening Star (Washington) _____
The Sunday Star (Washington) _____
Daily News (New York) _____
Sunday News (New York) _____
New York Post _____
The New York Times _____
The Daily World _____
The New Leader _____
The Wall Street Journal _____
The National Observer _____
People's World _____

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ple — 20,000 to 25,000 — would attempt to do such a stupid thing" as tie up Washington.

He testified that advance intelligence on the Mayday protests did not involve any wire-tapping.

However, in court affidavits filed in connection with criminal prosecutions of Yippie leader Abbie Hoffman and Bradford Lyttle, co-chairman of the People's Coalition for Peace and Justice, the Justice Department has acknowledged they were overheard during "national security" wiretaps.

The affidavit involving Hoffman was signed by Kleindienst last July 15. He testified yesterday that Mitchell had never delegated supervision of such wiretaps to him over the past three years.

The only negative testimony about Kleindienst came from Clarence Mitchell, Washington representative of the NAACP, who said the organization disapproved of his handling of a judicial nomination and civil rights enforcement.

As the NAACP officer stepped forward to testify, Kleindienst greeted him warmly and said, "Give 'em hell, Clarence."

Kennedy said yesterday that it had been 400 days since Attorney General Mitchell had held a press conference in Washington. "I suspect I'll probably have more press conferences than Mr. Mitchell," Kleindienst said, "and I probably will regret it."



By Bob Burchette—The Washington Post

Sen. Charles Mathias, left, and Richard Kleindienst chat at committee hearing.

1 - Mr. [redacted] sen
1 - Mr. P. Mohr
1 - Mr. Bishop
1 - Mr. Dalbey
1 - Mr. Cleveland

The Deputy Attorney General

February 25, 1972

Director, FBI

1 - Mr. E. S. Miller
1 - Mr. T. J. Smith

GUIDELINES FOR SECURITY INVESTIGATIONS
OF INDIVIDUALS AND ORGANIZATIONS

General
The matter of guidelines for FBI security investigations of organizations and individuals has been the subject of recent Congressional interest.

I am enclosing for your information a succinct statement setting forth the essence of our guidelines for security investigations of organizations and individuals.

Enclosure

TJS:glw
(10)

NOTE:

See memorandum T. J. Smith to Mr. E. S. Miller, dated 2/24/72, captioned as above, prepared by TJS:glw.

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Mr. Tolson
Mr. Felt
Mr. Rosen
Mr. Mohr
Mr. Bishop
Mr. Miller, E.
Mr. Callahan
Mr. Casper
Mr. Conrad
Mr. Dalbey
Mr. Cleveland
Mr. Ponder
Mr. Bates
Mr. Winkart
Mr. Walters
Mr. Soyars
Tele. Room
Miss Holmes
Miss Gandy

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1 - Mr. [redacted] en
 1 - Mr. J. P. Mohr
 1 - Mr. Bishop
 1 - Mr. Dalbey
 1 - Mr. Cleveland
 1 - Mr. E. S. Miller
 1 - Mr. T. J. Smith

February 24, 1972

GUIDELINES FOR SECURITY INVESTIGATIONS
OF INDIVIDUALS AND ORGANIZATIONS

By statute and Presidential Directives, the FBI is charged with the responsibility of coordinating all information regarding the internal security of the United States.

In addition to provisions of the Smith Act of 1940, Title I of the Internal Security Act of 1950, the Communist Control Act of 1954, and statutes relating to espionage, sabotage, rebellion and insurrection, sedition and seditious conspiracy, FBI authority and responsibilities for investigation of subversive matters are clearly stated in Presidential Directives dated June 26, 1939, and September 6, 1939, which have been reiterated and broadened by subsequent Directives.

Commission of crimes such as espionage and sabotage clearly involves specific statutory provisions. Other subversive activity, however, such as plotting the violent overthrow of the United States Government, often does not clearly involve a specific section of a specific statute. Such activity may often involve several sections of several statutes.

It is a well-established fact that the basic aim of the international communist movement is to overthrow all existing noncommunist governments and to set up in their stead a communist system of government. This is true whether the communist movement be directed from Moscow or from the headquarters of the Fourth International, which guides the Socialist Workers Party in the United States.

The Smith Act of 1940 was aimed at the international communist movement. However, statutes dealing with rebellion and insurrection and seditious conspiracy could cover any attempt at violent overthrow or destruction of the Government. Insofar as the FBI is concerned, therefore, any organization whatsoever which has as an objective the violent overthrow or destruction of the United States Government, or which engages in such acts as espionage, sabotage or other criminal activity detrimental to the national defense, would be subject to a thorough investigation. Furthermore, any individual who has membership

TJS:glw
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 Miss Gandy _____

Guidelines for Security Investigations of Individuals and Organizations

in or who is affiliated with or adheres to the principles of such organizations would likewise be subject to thorough investigation.

The FBI, therefore, has basic guidelines for conducting security investigations of organizations and individuals, in connection with the national security.

Organizations

The FBI conducts investigations of the Communist Party, USA; Socialist Workers Party; other Marxist revolutionary-type organizations, such as the Progressive Labor Party; front groups; New Left and miscellaneous organizations, such as the Students for a Democratic Society, Black Panther Party and miscellaneous other revolutionary organizations which are dedicated to violent overthrow or destruction of the United States Government.

The purposes of our investigations are to:

1. Obtain legally admissible evidence for prosecution under existing Federal statutes.
2. To obtain sufficient pertinent data to determine the organization's character and permit implementation of Executive Order 10450.
3. To obtain intelligence data in order to have day-to-day appraisal of strength, dangerousness, and activities of the organization; and to keep the Department of Justice and other affected Government agencies advised.

Individuals

The FBI has the responsibility to conduct thorough investigations into the background and activities of all persons in the United States and Puerto Rico who are dangerous or potentially dangerous to the internal security of the United States. Danger or potential danger of such individuals may involve membership in or affiliation with basic revolutionary organizations, or other Marxist revolutionary organizations including splinter groups.

Guidelines for Security Investigations of Individuals and Organizations

Purposes of investigation include:

1. Determination of dangerousness.
2. To fully establish identity, whereabouts and activities of all individuals who have been or may be violating laws of the United States relating to the national security.
3. To obtain admissible evidence to establish a violation of laws of the United States.
4. To be alert for indications of espionage, sabotage, or sedition.

The activities of any individuals should be investigated if they fall within one or more of the following categories:

1. Membership in a basic revolutionary organization.
2. Espousing the line of revolutionary movements. Such espousal could encompass a wide variety and range of activities. Actual membership in a basic revolutionary organization is not a prerequisite. Espousal may be expressed by membership or active participation in subversive front groups. Mere membership in a front organization, however, is not considered sufficient grounds for investigation, unless there has been past membership in a basic revolutionary organization or other subversive activity.
3. Special training such as training in a subversive movement abroad; or leadership training in a basic revolutionary organization.
4. Individuals employed in or having access to a key facility who are alleged to have been at any time members of a basic revolutionary organization.
5. Other individuals with anarchistic, revolutionary or extremist beliefs who are likely to seize upon a national emergency to endanger public safety and welfare. In such cases, membership or affiliation in basic revolutionary front groups are not prerequisites.

In spite of the need to keep constantly abreast of situations affecting the national security, it is fundamental to all FBI investigations that the constitutional rights of

Guidelines for Security Investigations of Individuals and Organizations

the individual must be protected. The FBI is a fact-finding agency which impartially seeks to gather evidence which will either aid in the successful prosecution of, or establish the innocence of, alleged violators of laws of the United States or those who are accused of seeking by force to subvert or overthrow the Government of the United States. The FBI makes no determination of the guilt or innocence of any individual or group so accused.

For example, in matters affecting the internal security of the United States, no investigation is conducted merely because an individual or group supports an unpopular cause, or petitions the Government for redress of grievances, nor do we investigate individuals solely on the basis of their membership in organizations which do not seek the overthrow of the United States Government by the use of force or violence. In addition, all of our investigations are carefully followed and supervised at numerous levels of supervision, both in the field and at FBI headquarters. One of the primary purposes of careful supervision of FBI investigations is to assure that at no time will the constitutional rights of an individual be placed in jeopardy.

NOTE:

See memorandum T. J. Smith to Mr. E. S. Miller, dated 2/24/72, captioned as above, prepared by TJS:glw.

UNITED STATES GOVERNMENT

Memorandum

TO

Mr. E. S. Miller *EM*

1 - Mr. Bishop

1 - Mr. Miller

DATE: 6/2/72

FROM

T. J. Smith *TJS*

1 - Mr. T.J. Smith *EM/TJS*

SUBJECT:

SECURITY JURISDICTION
"THE SCOPE AND BASIS OF FBI DOMESTIC INTELLIGENCE DATA COLLECTION" - JOHN T. ELLIFF

Felt ☒
Mohr ☒
Rosen ☒
Bates ☒
Bishop ☒
Callahan ☒
Campbell ☒
Casper ☒
Cleveland ☒
Conrad ☒
Dalbey ☒
Marshall ☒
Miller, E.S. ☒
Ponder ☒
Soyars ☒
Walters ☒
Tele. Room ☒
Mr. Kinley ☒
Mr. Armstrong ☒
Ms. Herwig ☒
Mrs. Neenan ☒

M.A. Jones to Bishop memorandum concerned a letter from John T. Elliff, Assistant Professor, Department of Politics, Brandeis University, who requested an interview with Mr. Gray. The letter enclosed two studies entitled "The Scope and Basis of FBI Domestic Intelligence Data Collection," and "Aspects of Federal Civil Rights Enforcement: The Justice Department and the FBI, 1939-1964." Mr. Gray requested that these papers be thoroughly analyzed and sound rebuttals prepared. The first paper dealing with Domestic Intelligence data is analyzed herein. The second, dealing with Civil Rights enforcement, is being handled separately by the General Investigative Division.

SYNOPSIS:

Mr. Elliff's study, which was presented at a two-day conference last October at Princeton sponsored by the Committee for Public Justice, consists of 70 pages of detailed observations and conclusions based on a study of 126 sources, including copies of numerous FBI documents stolen in the Media Resident Agency burglary. Mr. Elliff's paper is a calm, unemotional, scholarly study and for the most part is objective and is not highly critical of the FBI. He has exhibited a lack of understanding (or else has brushed off the significance) of the internal security threat posed by the domestic subversive. His main thrust is, however, that certain domestic intelligence investigation is necessary, but that any such activity on the part of the FBI should be fully authorized and circumscribed by statute. He strongly suggests, among other things, a separation of domestic and foreign intelligence-collection functions and he believes that a permanent domestic intelligence advisory council, similar to the existing Foreign Intelligence Advisory Board, should be established. Elliff also calls for an investigation of the FBI by a select Senate committee.

ACTION:

ST-104

REC-30

For the information of Mr. Gray.

18 AUG 9 1973

UNRECORDED COPY FILED IN 62-66721-111

Memorandum for Mr. Miller

RE: "THE SCOPE AND BASIS OF FBI DOMESTIC
INTELLIGENCE DATA COLLECTION" - JOHN T. ELLIFF

DETAILS:

John T. Elliff presented a 70-page copyrighted study during a two-day conference sponsored by the Committee for Public Justice at Princeton, October 29-31, 1971. The study listed 126 sources of information for documentation. Included in the list of sources were at least 30 FBI documents stolen during the burglary of the FBI Resident Agency at Media, Pennsylvania. Elliff's study notes that revelations of the Media documents resulted in emergence of a vague picture of FBI intelligence activities. He acknowledged that fragmentary news stories, second-hand accounts, papers taken out of context, and unverified charges brought more confusion than enlightenment about the FBI's operations. He stated that major changes in the FBI's mission had not been readily perceived and that disclosures like the Media documents are distorted because they enter an analytical vacuum.

OBSERVATION:

While this premise is apparently based on Elliff's review of a great deal of material he attributes to historians, he does not take into consideration that the operations of the FBI have constantly been open to public scrutiny through Mr. Hoover's annual appearance before the House Appropriations Subcommittee and his numerous public statements in the news media and publications produced by the FBI.

THE SUBVERSIVE THREAT:

Elliff went into quite some detail concerning the interpretation of subversive danger to the country both as it related to the fascist threat of the 1930's and World War II era, and the communist threat extending into the present.

OBSERVATION:

Elliff exhibited a lack of understanding of the danger to the Nation by the subversive elements including both the fascists and communists. While he referred to the FBI's first intelligence investigations as being directed against "fifth columnists" in 1934, he did not stress in sufficient detail just how dangerous this "fifth column" of Nazi and fascist sympathizers really was.

DETAILS - CONTINUED OVER

Memorandum for Mr. Miller

RE: "THE SCOPE AND BASIS OF FBI DOMESTIC
INTELLIGENCE DATA COLLECTION" - JOHN T. ELLIFF

He then said that the term "fifth column" has been out of fashion since the end of World War II. This observation may be true insofar as the fashionable use of the expression is concerned. But, factually the concept of the "fifth column," as it can be applied to international communism, was even stronger following World War II.

Elliff fails to stress the fact that following World War II Soviet Russia enslaved the peoples of Eastern Europe with its communist ideology, using the concept of "fifth column" tactics to seize control of government after government. Elliff speaks glibly at one point of a pilgrimage to Washington of several thousand youths which was sponsored by the American Youth Congress, a communist front organization. While admitting the communistic nature of the group, he implied, mainly through omission, that the communist influence was insignificant. He noted, however, that the President clearly desired this sort of information.

Elliff pointed out that at one point the FBI had estimated that almost one million people had been drawn into communist-front activity, but he failed to go into the tremendous significance of a million people being involved in an activity which was manipulated by an ideology which preached and preaches the violent overthrow of the United States Government.

He made the statement that the Communist Party, during the period 1935-39 softened its revolutionary line, virtually endorsed the New Deal, and adopted a policy of alliance with noncommunist groups and that because of this the potential range of FBI intelligence extended to every left-liberal organization that was an object of communist infiltration. Again, through omission he failed to take note of the fact that the communists have never really softened their revolutionary line. The philosophy of "the end justifies the means" has been the backbone of communist strategy and any "softening of its revolutionary line" has only been for the purpose of duping the gullible and the naive. A scholar such as Elliff should certainly be aware of the philosophy of deceit which is a trademark of the Communist Party.

In discussing organizations included on the Attorney General's list of subversive organizations, Elliff refers to the Trotskyist Socialist Workers Party as being nearly defunct. Elliff, who is an Assistant Professor in the Political Department of Brandeis University, displayed an amazing lack of knowledge of the Socialist Workers Party. It is not only not nearly defunct, it is today one of the most militant of the so-called old line revolutionary organizations and its influence on the antiwar movement and youth organizations

Memorandum for Mr. Miller

RE: "THE SCOPE AND BASIS OF FBI DOMESTIC
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is very strong. Its revolutionary stance has not diminished and the treatment afforded in Elliff's study certainly would lead one to believe that the Socialist Workers Party represents no danger to our national security.

PRESIDENTIAL DIRECTIVES:

Elliff's study is largely concerned with the legal authority for FBI intelligence-type investigations. He pointed out that from the time Mr. Hoover was appointed Director until 1936 he had a policy of "closed-end investigations" as described below, but that ultimately this policy gave way to intelligence coverage which involves continuing investigative work within a broad range of delegated authority. He points out that we have claimed to have derived authorization for our responsibilities in the domestic intelligence field from legislative enactments, Presidential directives, and instructions of the Attorney General.

Concerning the authority derived from Presidential directives, Elliff goes into some detail concerning the issuance of the Presidential directive of September, 1939, which has been reiterated on three subsequent occasions. Apparently based on a study of the Roosevelt papers and other material of record, Elliff presents a picture of Mr. Hoover manipulating President Roosevelt into issuing the September, 1939, directive, implying that Roosevelt may not have realized that he was shifting the basis of FBI authority from Congressional statute to Presidential directive. Elliff states at another point, however, that Roosevelt probably assumed he had already granted this authority in 1936 when he requested intelligence investigations of fifth columnists.

Elliff declares that Roosevelt's 1939 directive (or statement) had to be an assertion of inherent executive power, but that the evidence suggests that Roosevelt did not intend to grant such authority. He said that there is now the impression that the White House was never clearly informed of the legal situation and that the FBI later magnified a statement (the 1939 directive) into a definitive order.

Memorandum for Mr. Miller

RE: "THE SCOPE AND BASIS OF FBI DOMESTIC
INTELLIGENCE DATA COLLECTION" - JOHN T. ELLIFF

OBSERVATION:

It is true that we have cited the 1939 Presidential directive, and the succeeding ones re-iterating it, as one of the bases for our authority to carry out responsibilities in the domestic intelligence field. While the full intent and purpose of the initial directive will be the subject of critical analysis by legal minds, politicians and historians for years to come, we now see in retrospect that there is a definite weakness to any actual interpretation of the directive's conveying a legal authority not already existing by Congressional statute. We are currently making an in-depth study of the effect these directives have on our intelligence investigations.

It is dangerous to make a hasty judgment on the legal basis of the 1939 et sequens directives, since much of our extremely important investigative activities are at stake. It would appear on the surface, however, that existing statutes which were ignored by Elliff in his study cover most if not all of our investigations of subversive activities. Statutes such as Title 18, USC 2383 (Inciting to Rebellion or Insurrection), Title 18, USC 2384 (Seditious Conspiracy - Conspiracy to Overthrow or Destroy the Government), Title 18, USC 2385 (Advocating Overthrow of the Government), and several others appear to be sufficient basis for our security investigations, whether the questioned directives exist or not.

We believe without doubt that the type of investigations we have conducted over the years and are conducting now in the interest of national security are very necessary. The question as to whether the so-called "closed-end investigation" as would normally be conducted in an investigation of a criminal violation should also be the only type investigation conducted relative to investigations involving statutes relating to the national security is absurd. A criminal-type investigation usually takes place after the crime has been committed. We cannot allow a crime against the Government to occur. Therefore, where conspiracies are afoot and where ideologies are based on the destruction of the Government there must be continuing intelligence investigations if for no other reason than to neutralize the threat.

A good example is the matter of the investigations which continue on Communist Party functionaries such as Gus Hall. Gus Hall was investigated, tried and convicted and served time in a Federal penitentiary (as did other high-level officials of the Communist Party) for violation of the Smith Act. These people, without exception, now out of prison, profess the same beliefs as before, including the basic belief of overthrowing this Government.

Memorandum for Mr. Miller

RE: "THE SCOPE AND BASIS OF FBI DOMESTIC
INTELLIGENCE DATA COLLECTION" - JOHN T. ELLIFF

We believe that it is not necessary to close an investigation simply because enough evidence has not been collected to support prosecution of an individual whom we have reason to believe will attempt to overthrow or destroy the United States Government. As long as the circumstances indicate the danger to the Nation exists, we feel that a continuing investigation is necessary. We believe also that statutes can in most every case be cited as a legal basis for investigation of this sort.

There are, however, situations which are so vague as to defy a statutory connection. Many of these situations involve instructions from the White House to furnish information or intelligence on matters relating to policy making and planning the national defense, or foreign relations. In such cases we have relied on the so-called inherent executive power to order an investigation required in connection with executive responsibilities. In such cases the reliance on the 1939 et sequens directives has been a means whereby White House requirements could be handled.

CONSTITUTIONAL POWER OF THE PRESIDENT

Elliff raises the question as to whether the so-called inherent executive power gives him the broad authority to issue an executive order or Presidential directive which could give authorization to the FBI for conducting intelligence investigations. He acknowledges that the Department of Justice maintains that domestic intelligence functions are within the inherent powers of the President, which are not dependent upon any grant of legislative authority from Congress, but derive from the Constitution itself. Elliff belittles this Departmental position.

He states that in connection with language in the 1968 Omnibus Crime Bill (wiretapping) which related to the President's constitutional power, Senator McClellan, who introduced the Act, later remarked that the Congress had not even considered that question in 1968.

OBSERVATION:

It is questionable that Elliff, in spite of his scholarly approach to this study, has the background and legal credentials and knowledge to attack the constitutional question of the scope of so-called inherent executive power. We certainly believe that the President does have the constitutional power to

Memorandum for Mr Miller

RE: "THE SCOPE AND BASIS OF FBI DOMESTIC
INTELLIGENCE DATA COLLECTION" - JOHN T. ELLIFF

direct the FBI to do whatever is necessary to protect the national security and that a Presidential directive which does not abrogate the various constitutional amendments or impinge on the statutory rights of the citizen would have the full force of legislative authority.

There are questions before the Supreme Court at this moment, however, dealing with the very issue raised by Elliff and in the present political climate where established concepts of Government policy, including our own investigative policies, are under attack by civil libertarians, it is difficult to say how broad the Presidential power may be tomorrow.

ELLIFF'S CONCLUSIONS:

Elliff stated that appropriate legislation or administrative reforms could be drafted and adopted only after a thorough scrutiny of FBI functions; that first a firm constitutional foundation should be established for domestic intelligence. He suggested that a legislative framework might adequately authorize the most vital functions.

We agree that if it were possible to have a legislative framework to adequately cover the myriad situations affecting the national security, this would be the best possible situation. We certainly have no fear of our investigative activity being circumscribed, so long as adequate provisions are made for protection of the national security. It has long been the policy of the FBI that the first consideration in our investigative activity is the protection of individual rights of the citizen.

It is extremely doubtful that at this point in time with the political climate existing as it is today that any meaningful legislation could be drawn in Congress which would give the FBI the legislative authority, beyond that which we already have, that would respond to Elliff's suggestions.

CONCLUSIONS CONTINUED:

Elliff suggested that serious consideration should be given to separating foreign counterespionage duties from domestic intelligence. He notes that requirements for the two functions are substantially different and that indeed the controversy over FBI "political surveillance may hinder effective counterespionage contacts.

Memorandum for Mr. Miller

RE: "THE SCOPE AND BASIS OF FBI DOMESTIC
INTELLIGENCE DATA COLLECTION" - JOHN T. ELLIFF

OBSERVATION:

There have been other suggestions of separating various functions of the FBI. We feel that while there is some merit in the principle that there is a difference in the way foreign intelligence matters are handled and the way domestic intelligence and criminal cases are handled, it would be impractical to have a complete separation of functions without an enormous administrative problem. At present there is a flexibility of use of Special Agents which means that under our present administrative structure literally thousands of Agents are available to handle any given case of importance whether it has to do with a Soviet illegal agent or a kidnaping.

We already maintain, to the extent practical, a separation of all our various functions so that we have specialists handling foreign intelligence matters in most offices and other specialists handling domestic intelligence and criminal cases. Where needed, however, such as in a surveillance across the Nation, large number of additional Agents can be pressed into service. This would not be possible with the kind of separation suggested by Elliff. There are other reasons why such a separation would be impractical.

CONCLUSIONS CONTINUED:

Elliff suggests that a permanent domestic intelligence advisory council, similar to the existing foreign intelligence advisory board, should be established. He notes that the latter is a part-time group of outside consultants which makes reports to the President, the reports not being made public.

OBSERVATION:

Elliff does not go into enough detail as to what effect such a council might have on the operations of the FBI. The FBI makes reports to the President's Foreign Intelligence Advisory Board, and we can find nothing which would indicate that this Board does not serve a useful function to the President. Within the same context there should be no disadvantage to the FBI in the establishment of a domestic intelligence advisory council. This opinion is, of course, predicated on the assumption that such a council would not serve in any way in an overseer capacity and would not exercise any powers over any of our operations.

Memorandum for Mr. Miller

RE: "THE SCOPE AND BASIS OF FBI DOMESTIC
INTELLIGENCE DATA COLLECTION" - JOHN T. ELLIFF

CONCLUSIONS CONTINUED:

Elliff was not highly critical of the FBI's investigative policies or activities. He advanced the suggestion that a public inquiry of the FBI is in order, and that such an investigation could be undertaken by a select Senate committee. He said, however, that such an inquiry would not seek to discover illegality, but rather to evaluate for the first time the Bureau's overall mandate against the norms of the Constitution. He said that if fault is to be found, it would not be sought in the Bureau and its Director, but in the long line of Attorneys General, Presidents and Congresses who have given power and responsibility to the FBI.

OBSERVATION:

There have been numerous efforts over a long period of time to have congressional committees or other outside agencies conduct a public inquiry of the FBI. However, whatever noble purpose might be behind Elliff's suggestion or those before him that a public inquiry into FBI operations should be instituted, the whole idea is preposterous when consideration is given to the confidential nature of our FBI files.

We have nothing to hide from the standpoint of our administrative policies and operations. But what committee would stop at administrative policies? We have already seen what can happen when our investigative files are opened to the curious ones. Our Media documents and material leaked to such persons as Jack Anderson are taken out of context and used for purposes wholly unintended. Both in the case of the Media documents and the Anderson documents, information was publicized that would have never seen the light of day; would never have damaged a reputation; would never have violated a trust had they not been exposed to public view.

We have been accused of maintaining "Secret files" or "dossiers" with the implication that we have two sets of files. Such is not the case. All FBI files are confidential and with the exception of maintaining highly classified material under more closely guarded conditions because of regulations requiring it all FBI files are treated the same.

Memorandum for Mr. Miller

RE: "THE SCOPE AND BASIS OF FBI DOMESTIC
INTELLIGENCE DATA COLLECTION" - JOHN T. ELLIFF

The lives of both criminal and security informants and other individuals depend to a large measure in the FBI maintaining strict control over its files and information. We frankly would not trust the lives of others to members of an investigating committee who could not comprehend the necessity for keeping our records from public scrutiny. We are unalterably opposed to any investigating committee being given access to our complete operations. We are confident that the American people share this view.

SUMMARY:

As noted herein, Elliff's study is calm, unemotional and scholarly. Whether the Presidential directives he refers to are valid remains to be seen. We feel that the President does have the power to issue directives giving us authority to conduct intelligence investigations. We even feel that a comprehensive directive from the President could sweep away many doubts, even in our own minds, as to the actual scope of our authority in conducting intelligence investigations. However, being realistic, we feel that the political climate which would no doubt preclude any meaningful additional legislation in this area, would also prevent the issuance of any such directive during an election year. Meanwhile, we are endeavoring to do the job which everyone, including Elliff, recognizes is necessary, and to do this job using the statutes where possible as basis for authority as we have always done, but following Presidential mandate in any event on the basis that the President possesses the power to protect internal security.

EM

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AS

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. E. S. Miller

FROM : T. J. Smith *TJS*

SUBJECT: POSITION PAPER

DOMESTIC INTELLIGENCE DIVISION

SCOPE OF FBI AUTHORITY, JURISDICTION

AND RESPONSIBILITY IN DOMESTIC

INTELLIGENCE INVESTIGATIONS

1 - Mr. Felt

1 - Mr. Dalbey

DATE: 8/1/72

1 - Mr. Miller

1 - Mr. D. M. Armstrong

1 - Mr. Williamson

1 - Mr. Decker

1 - Mr. A. W. Gray

1 - Mr. C. W. Thompson

1 - Mr. T. J. Smith

Felt ☒
Bates ☐
Bishop ☐
Callahan ☐
Campbell ☐
Cleveland ☐
Conrad ☐
Dalbey ☒
Jenkins ☐
Marshall ☐
Miller, E.S. ☒
Ponder ☐
Soyars ☐
Walters ☐
Tele. Room ☐
Mr. Kinley ☐
Mr. Armstrong ☒
Ms. Herwig ☐
Mrs. Neenan ☐

Security Jurisdiction

Reference is made to memorandum from the Acting Director to all Assistant Directors dated 5/11/72 instructing that position papers be prepared as in-depth studies for presentation during a two-day Executive Conference scheduled to begin on 5/23/72. Subject of Domestic Intelligence Division paper was Subversion (to specifically include a detailed analysis and justification for our current policies with regard to the investigation of individuals where there has been no specific violation of Federal law. Is additional legislation needed?).

A paper was prepared and submitted in advance of the scheduled Executive Conference. However, during the Executive Conference you demurred concerning the paper already submitted and offered a different position. The essence of your second position was that the FBI has relied on Presidential directives dating back to 1939 for investigative authority to conduct investigations where there were no specific violations of law; that these directives do not appear to convey any authority which the FBI did not already possess; and that statutory authority is present to conduct the type of investigations we have and continue to conduct. *62-66727-1821*

REC-13

FEB 8 1972

You pointed out the need for an in-depth study to determine if we need additional statutory or Executive authority to conduct intelligence-type investigations where no specific violation of Federal law was involved. You recommended that such a study be instituted, after which a position paper would be submitted

Enclosures

TJS:bjr

(10)

XEROX

FEB 9 1973

CONTINUED - OVER

58 FEB 1 1973
This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

Memorandum to Mr. E. S. Miller
Re: Position Paper
Domestic Intelligence Division
Scope of FBI Authority, Jurisdiction
and Responsibility in Domestic
Intelligence Investigations

containing results of the study. With Mr. Gray's concurrence a study was instituted and a committee was formed consisting of SAs A. J. Decker, A. W. Gray, C. W. Thompson and myself from Domestic Intelligence Division, SA John Hotis of Legal Counsel's Office and Mr. D. M. Armstrong of the Acting Director's Office. You designated me to act as chairman. The committee was to conduct the in-depth study referred to above and to submit a position paper.

Unfortunately for our project, SA Hotis was reassigned to another position part way through the study and SA J. L. Williamson was designated to replace him as a representative of Legal Counsel's Office. The study has been tedious and has necessarily required a great deal of time to date. Material to study has been difficult to locate and a tremendous amount of research was necessary to determine how much statutory authority we actually have.

There is division of opinion among the committee members as to whether Presidential directives issued during the pre-World War II period and afterward are legitimate sources of current FBI investigative authority and whether statutes on the books can be used as the basis for conducting intelligence-type investigations where there is no specific violation of law involved. Examples of cases where some dependence on the Presidential directives is believed necessary, or some authority other than statutory authority is required were submitted by the various Sections supervising Domestic Intelligence Division cases. These examples were incorporated into the study.

CONTINUED - OVER

Memorandum to Mr. E. S. Miller
Re: Position Paper
Domestic Intelligence Division
Scope of FBI Authority, Jurisdiction
and Responsibility in Domestic
Intelligence Investigations

There is attached a draft of a position paper written by me, based on research of all available records and documents and of the examples furnished by individual Sections and on a painstaking review of existing statutes covering some or all phases of Domestic Intelligence Division work. To support this position paper there is also submitted as an exhibit to the position paper a compilation of statutes, together with recent court decisions affecting some of them; copies of Presidential directives and Executive orders relating to Domestic Intelligence Division work; and copies of various memoranda and other documents used to support the position taken in my paper.

It is recognized that the points of view taken in the attached paper are in many instances based on opinion and conclusion which may be subject to question or rebuttal from a legal standpoint. It is also recognized that in some instances it might appear that the FBI's investigative policies, both past and future, are being undermined by the conclusions reached in this study. However, it is believed that with the pressure being applied to dig into the FBI's investigative policies and guidelines, it is imperative that if there are weaknesses in our policies or procedures we must expose them, admit they exist, and eliminate them without delay.

It is my firm conviction that intelligence-type investigations conducted in the past and which certainly will be necessary in the future have been firmly based in lawful authority derived from statutes and constitutional power of the President as set forth in Executive Orders 9835 and 10450, but that we have overstated our authority supposedly derived from Presidential directives issued from 1939 through 1953. I strongly feel that upon completion of our position paper we should then call upon the

CONTINUED - OVER

Memorandum to Mr. E. S. Miller
Re: Position Paper
Domestic Intelligence Division
Scope of FBI Authority, Jurisdiction
and Responsibility in Domestic
Intelligence Investigations

Attorney General to provide legal guidance and advice as to just how much authority we have or need to conduct the investigations necessary to protect the national security.

The attached position paper is submitted as a status report for the Acting Director and for the review of each member of the committee designated to participate in the study. This is a starting point. It sets forth the information which we have been able to locate. It should now be read critically and objectively by each member of the committee and thereafter each should submit his views in writing to voice dissent, rebuttal, observations, additional evidence supporting their views or additional evidence supporting this paper, and any recommendations not covered in the paper.

It should be borne in mind in reviewing this paper that there is at least one lawsuit pending against the FBI, et al, (MUHAMMAD KENYATTA, et al versus J. EDGAR HOOVER, et al, Civil Action No. 71-2595 in the United States District Court for the Eastern District of Pennsylvania) in which the very issue of the FBI's legal basis for conducting intelligence-type investigations may have to be shown in court. Therefore, our final position paper must be realistic and factual and not be a whitewash or a perpetuation of misconceptions of the past.

CONTINUED - OVER

Memorandum to Mr. E. S. Miller
Re: Position Paper
Domestic Intelligence Division
Scope of FBI Authority, Jurisdiction
and Responsibility in Domestic
Intelligence Investigations

ACTION:

That the committee referred to herein meet on 8/14/72 at a time and place to be agreed upon to present written views and to resolve any differences which might exist in relation to opinions expressed in the attached position paper, and that a proposed draft of letter to the Department of Justice be framed so that this matter can be considered by the Department.

*Approved.
I have the Summary*

*Jim 8/4
4:45P
Tom D*

WBC

EM

DET

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. E. S. Miller

DATE: 8/17/72

FROM : T. J. Smith

1 - Mr. Bishop
1 - Mr. E.S. Miller

SUBJECT: JACK ANDERSON'S COLUMN IN
"THE WASHINGTON POST"
8/12/72

1 - Mr. Shackelford
1 - Mr. T. J. Smith
1 - Mr. J. M. Sizoo

Felt _____
Baker _____
Bates _____
Bishop _____
Callahan _____
Cleveland _____
Conrad _____
Dalbey _____
Jenkins _____
Marshall _____
Miller, E.S. _____
Ponder _____
Soyars _____
Walters _____
Tele. Room _____
Mr. Kinley _____
Mr. Armstrong _____
Ms. Herwig _____
Mrs. Neenan _____

Captioned column (copy attached) which was headlined "Blockade Fails to Halt Hanoi Supplies" contains a section titled "Financial Secrets" comprised of information on the financial dealings of antiwar activists Dr. Benjamin Spock and Jane Fonda, as well as on Floyd McKissick, Negro civil rights activist.

The information was taken, sometimes verbatim, from the following FBI documents: (1) a 4/15/68 New York Office report on Spock classified "Confidential"; (2) a 2/23/68 New York Office report on McKissick classified "Top Secret"; (3) a 4/30/71 Los Angeles Office report on Jane Fonda classified "Top Secret, No Foreign Dissemination, No Dissemination Abroad"; and (4) a 1/20/72 Los Angeles Office report on Fonda classified "Secret, No Foreign Dissemination, No Dissemination Abroad."

Concerning Spock, Anderson notes that an FBI inquiry at the Amalgamated Bank of New York revealed that Spock had received a check dated 12/12/67 for \$500 from the Fifth Avenue Vietnam Peace Parade Committee. This information was set forth in the New York report (Anderson calls it an FBI memo) dated 4/15/68 on Spock which was disseminated to Secret Service, Assistant Chief of Staff for Intelligence (U. S. Army), and the Department of Justice. Investigation on Spock was initiated in 1968 to determine whether or not his speeches were seditious and his activities subversive.

Anderson's column also states that the same FBI document included financial information obtained from the Chemical Bank New York Trust Company concerning a Doctor Edward Barsky Dinner Committee. This information was taken from the characterization of that committee set forth in the 4/15/68 report's appendix. The information concerns the opening of the group's account as an affiliate account of the "National Guardian," which was characterized by the House Committee on Un-American Activities in 1961 as a "virtual propaganda arm of Soviet Russia." In

Enclosure

JMS:gl
(6)

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

ENCLOSURE

Memorandum to Mr. E. S. Miller
Re: Jack Anderson's Column in
"The Washington Post"
8/12/72

In addition, information in the characterization contained the names of three officers of the group who have been identified by sources in the past as Communist Party, USA, (CPUSA) members or former members. Barsky was identified as a CPUSA member in 1953. The 4/15/68 report on Spock notes that Spock's name appeared on the program as a sponsor of a testimonial dinner given Barsky on the 30th anniversary of the Spanish Civil War in New York City in 2/67.

Information is set forth in Anderson's 8/12/72 column regarding a check made out in Floyd McKissick's name for \$2,500 and drawn on the account of the Louis M. Rabinowitz Foundation. This information comes from a 2/23/68 New York Office report on McKissick which was disseminated to Secret Service, Internal Revenue Service, the Department of Labor, the Department of Commerce, the U. S. Information Agency, and the Department of Justice. The information was also featured in a previous Anderson column on 5/13/72. McKissick was investigated beginning in 1967 because of his militancy, revolutionary statements, and advocacy of support for the Black Panther Party. The investigation was closed in 1/70. Concerning the Rabinowitz Foundation, in 1962, Gus Hall, CPUSA General Secretary, complained that then president Victor R. Rabinowitz of the foundation was giving money to a "left faction" which included expelled CPUSA members.

Anderson's 8/12/72 column also refers to financial information obtained by the FBI on Jane Fonda, noting that a 4/30/71 memo (actually a 334-page report on Fonda) lists five checks written by Fonda to various groups, including the National Council of Churches. This is a repeat of information Anderson included in his 5/12/72 column.

Anderson's 8/12/72 column also refers to "another memo dated this past January" (actually a 1/20/72 Los Angeles report on Fonda) containing information on ten checks written on Fonda's bank accounts and on 18 checks written by one Ellen Lustbader, Fonda's personal secretary. The 4/30/71 and 1/20/72 reports on Fonda were disseminated to the Internal Revenue Service, Secret Service, Defense Intelligence Agency, and the Department of Justice. Fonda has been investigated to determine whether or not her speeches or activities indicate a violation of the sedition statute.

Memorandum to Mr. E. S. Miller
Re: Jack Anderson's Column in
"The Washington Post"
8/12/72

On 8/14/72 Anderson testified before a subcommittee of the Senate Banking Committee in favor of legislation which would require subpoenas or customer consent for authorities to examine customer account records. At that time Anderson reportedly furnished the subcommittee with copies of what he called FBI memos on Spock, McKissick, and Fonda.

Analysis of this column and other recent columns indicates that Anderson is repeating some information from his earlier 5/72 columns regarding FBI documents. In addition, Anderson seems to be going into more detail utilizing the FBI documents which he claims to possess. While Anderson testified on 8/14/72 that informants in the FBI had told him of FBI inquiries into the checking accounts of individuals under investigation, it is believed that Anderson is actually obtaining his information concerning these matters from the copies of documents which he apparently possesses. We are, of course, continuing our analysis of items appearing in Anderson's columns from FBI documents, and the Washington Field Office is currently conducting an investigation centering on Gary Kent Rubens, who participated in a program to transfer Secret Service records to a new computerized form from 8/71 through 5/72 when Rubens was employed by the contractor company, Computer Sciences Corporation, Falls Church, Virginia.

RECOMMENDATION:

If approved this memorandum will be included in the book maintained on Anderson in the Research Section, Domestic Intelligence Division.

Approved.

Jim 8/27

11:42A

OK

EM/DEM

WRW/AG

IMS

EM

wbc/p

Felt _____
 Bates _____
 Bishop _____
 Callahan _____
 Campbell _____
 Cleveland _____
 Conrad _____
 Dalbey _____
 Jenkins _____

The Washington Merry-Go-Round

THE WASHINGTON POST

Saturday, Aug. 12, 1972

D 31

Blockade Fails to Halt Hanoi Supplies

By Jack Anderson

The blockade of Haiphong harbor, according to the latest intelligence reports, has failed to stop the steady flow of supplies into North Vietnam.

Aerial photos show that heavy shipments are rolling across China without any appreciable backup at the border. This means the supplies are pouring into North Vietnam through the existing network of roads, trails and rail lines.

Oil from China is also being pumped through a new, jungle-hidden pipeline into the Hanoi area. Enough oil is coming through, apparently, to enable Hanoi to get along without fuel rationing.

Captured documents also indicate that North Vietnamese troops at the front have an ample stockpile of arms, ammunition, food and fuel. These supplies had already been moved into position, reportedly, before Haiphong harbor was mined.

Financial Secrets

Banks are supposed to protect the financial secrets of their customers. If the FBI wants to snoop into the accounts of a suspect, however, the bankers usually fall all over themselves in their eagerness to cooperate.

For the record, the bankers say they don't release finan-

cial information to government gumshoes without a subpoena. Dozens of FBI files in our possession, however, tell a different story.

An FBI memo about baby doctor Benjamin Spock, for example, states that on Dec. 12, 1967, he received a \$500 check from the "Fifth Avenue Vietnam Peace Parade Committee."

A subsequent notation warns that "the above check information cannot be made public except in the usual proceedings following the issuance of a subpoena *duces tecum* . . .

"The person to be subpoenaed in this matter is Miss Sara T. Malloy, senior vice president, Amalgamated Bank of New York, 11-13 Union Square, New York, New York."

Miss Malloy refused to discuss the matter with us, but the bank's executive vice president, Nicholas Agosta, insisted it was Amalgamated's "policy to get a subpoena before releasing such information."

An attorney for the bank, Alan Blumberg, admitted to my associate, Joseph Spear, that bank officials frequently cooperate with federal investigators, usually against the advice of their counsel.

The same memorandum on

Dr. Spock discloses that the FBI was provided financial information by the Chemical Bank New York Trust Company concerning an organization called the "Doctor Edward Barsky Dinner Committee." The person to serve with a subpoena in this case, the memo said, was "Irwin H. Sklar, Manager."

Sklar was on vacation and unavailable for comment.

The FBI file on black leader Floyd McKissick reveals that in 1967 he "received Check Number 2666 made out in his name and drawn against the account of the Louis M. Rabinowitz Foundation, Incorporated, in the amount of \$2,500."

"The above information," the memo warns, "is not to be made public without the issuance of a subpoena *duces tecum*, directed to Mr. Henry F. Skelton, vice president, Manufacturers Hanover Trust Company, 40 East 42d Street, New York, New York."

Skelton has subsequently retired, but the man who took his place, Frederick E. Lyon, told us "it is the bank's strict policy to require whatever legal documentation is necessary before we release any information."

Movie actress Jane Fonda's checking accounts are an open

book to the G-men. A "Top Secret" FBI memo dated April 30, 1971, for example, lists five checks written by Miss Fonda to various groups, including the National Council of Churches.

Another memo dated this past January listed 10 checks written on Miss Fonda's accounts. The federal sleuths also visited the City National Bank, Los Angeles, Calif., and copied down the details of 18 checks written by Ellen Lustbader, who is identified as Miss Fonda's "personal secretary."

According to the FBI, Miss Fonda keeps her personal checking accounts at the Morgan Guaranty Trust Company, New York. The information they collected, the memo warns, "is not to be made public" without a subpoena directed to "Arthur W. Herbert, Assistant Secretary."

Herbert told us he didn't release the information and suggested it may have been given to the FBI "by our counsel."

Note: Several senators have expressed concern that federal law doesn't adequately protect the privacy of bank records. Senator William Proxmire, (D-Wis.), in fact, is currently holding hearings in an effort to close loopholes in the law.

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ENCLOSURE

65-74690-37

DO-5 OFFICE OF ACTING DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

MR. FELT ☒
MR. MOHR _____
MR. ROSEN _____
MR. BATES ☒
MR. BISHOP ☒
MR. CALLAHAN _____
MR. CAMPBELL _____
MR. CASPER _____
MR. CLEVELAND _____
MR. CONRAD _____
MR. DALBEY _____
MR. MILLER, E.S. ☒
MR. PONDER _____
MR. SOYARS _____
MR. WAIKART _____
MR. WALTERS _____
TELE. ROOM _____
MRS. NEENAN _____

In each of these cases, the central issue is our authority, our jurisdictional authority, to investigate.

Therefore, in the future, indicate this authority by citing the pertinent provision of the U.S. Code, or other Authority. Also indicate whether or not an investigation was directed by DJ, or we opened it without any request from DJ. In the later instances, cite our reasons.

PLS CALL ME
J

J. 8/27
11:45A

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ENCLOSURE

37

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. E. S. Miller *EM*

DATE: 9/13/72

FROM : T. J. Smith *TJS*

SUBJECT: SCOPE OF FBI JURISDICTION
AND AUTHORITY IN DOMESTIC
INTELLIGENCE INVESTIGATIONS

- 1 - Mr. Dalbey
- 1 - Mr. E. S. Miller

- 1 - Mr. D. M. Armstrong
- 1 - Mr. Decker
- 1 - Mr. A. W. Gray
- 1 - Mr. Thompson
- 1 - Mr. J. L. Williamson
- 1 - Mr. T. J. Smith

Felt _____
Baker _____
Bates _____
Bishop _____
Callahan _____
Cleveland _____
Conrad _____
Dalbey _____
Jenkins _____
Marshall _____
Miller, E.S. _____
Ponder _____
Soyars _____
Walters _____
Tele. Room _____
Mr. Kinley _____
Mr. Armstrong _____
Ms. Herwig _____
Mrs. Neenan _____

Security Jurisdiction

Smith to Miller memo dated 8/1/72, captioned "Position Paper, Domestic Intelligence Division, Scope of FBI Authority, Jurisdiction, and Responsibility in Domestic Intelligence Investigations," enclosed a 43-page position paper containing results of a detailed study concerning captioned matter.

Conclusions set forth in the 43-page study were that we must sweep away the myth that the FBI now has any investigative authority based on Presidential directives dating from 1939 and that any responsibility we derived from those directives is so outdated as to be very questionable if not entirely void.

Also concluded was that the FBI has valid reason to conduct intelligence-type investigations based on Federal statutes relating to various types of subversion affecting the national security. It was also concluded, however, that while it would be ideal to have definitive legislative enactment spelling out our jurisdiction and authority to conduct intelligence investigations the political climate today is such to stifle any attempt to formulate needed legislation.

For this reason it was recommended in the study that we request the Department to seek a comprehensive executive order which would cover any possible gaps between statutory authority and Executive necessity in protection of the national security.

ST-104

REC-30

6727-1822

A meeting was held on 8/14/72 of the committee formed to conduct a study of the captioned matter. Present were SAs T. J. Smith, A. J. Decker, J. L. Williamson, C. W. Thompson, A. W. Gray,

Enclosure

TJS:bjr

18 AUG 9 1973

CONTINUED - OVER

(9) 54 AUG 5 1973

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Memorandum to Mr. E. S. Miller
Re: Scope of FBI Jurisdiction
and Authority in Domestic
Intelligence Investigations

Mr. D. M. Armstrong, and Miss Catherine Doohan. The 43-page position paper was discussed at length and there was general agreement that the 1939 and subsequent directives give the FBI little if any current authority to conduct intelligence investigations. There was some disagreement as to whether intelligence-type investigations could be conducted on the basis of existing Federal statutes. However, this issue was not resolved since there does not appear to be any legal precedent relating to the matter.

The committee was unanimous in the conclusion that the FBI badly needs an updated executive order which clearly delineates FBI authority and responsibility to conduct intelligence investigations. It was agreed that we should prepare a proposed executive order and submit it in a letter to the Attorney General for consideration by the Acting Director. After careful study a proposed executive order has been drawn up and is included in a letter to the Attorney General which outlines the necessity for such an executive order. This letter is attached.

RECOMMENDATION:

That the attached letter to the Attorney General requesting the issuance of an executive order be approved.

APL
RS

WGL

EM

7

DJD
Jan

wfu

UNITED STATES GOVERNMENT

Memorandum

Felt _____
Baker _____
Bates _____
Bishop _____
Callahan _____
Cleveland _____
Conrad _____
Dalbey _____
Jenkins _____
Marshall _____
Miller, E.S. _____
Ponder _____
Soyars _____
Walters _____
Tele. Room _____
Mr. Kinley _____
Mr. Armstrong _____
Ms. Herwig _____
Mrs. Neenan _____

TO : Mr. W. M. Felt

DATE: 9/20/72

FROM : Mr. E. S. Miller

1 - Mr. Felt
1 - Mr. Bishop
1 - Mr. E. S. Miller
1 - Mr. T. J. Smith

SUBJECT: PROFESSOR JOHN T. ELLIFF
BRANDEIS UNIVERSITY
REQUEST TO INTERVIEW THE
ACTING DIRECTOR AND STAFF

By letter dated 9/15/72 Professor John T. Elliff, Brandeis University, referred to a previous letter from the Acting Director, 5/30/72, concerning an interview with the Acting Director and members of his staff relating to the FBI's domestic intelligence system. The 5/30/72 letter indicated a meeting would be arranged after the Acting Director had an opportunity to conduct his own studies. Professor Elliff renewed his request for interview and suggested late November be considered as an appropriate time.

T. J. Smith to E. S. Miller memorandum 6/2/72, captioned "The Scope and Basis of FBI Domestic Intelligence Data Collection - John T. Elliff," reported a detailed analysis of a study submitted by Professor John T. Elliff during the two-day conference in October, 1971, at Princeton University sponsored by the Committee for Public Justice. In essence Professor Elliff's study was a calm, unemotional, scholarly study relating to our domestic intelligence-type investigations. The study for the most part, was objective and not highly critical of the FBI.

Major thrust of the study revolved around authority and jurisdiction of the FBI in the domestic intelligence field, and he argued that our authority in this area is questionable.

As a part of a reexamination of our position in the domestic intelligence field of operations, we began an in-depth study of the scope of our jurisdiction and authority in this area. A 43-page position paper was submitted 8/1/72 and by memorandum.

Enclosure

CONTINUED - OVER

TJS:bjr

(5)

58 OCT 19 1972

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Memorandum to Mr. W. M. Felt
Re: Professor John T. Elliff
Brandeis University
Request to Interview the
Acting Director and Staff

dated 9/13/72 a letter to the Attorney General was submitted for the Acting Director's consideration. The position paper concluded that certain Presidential directives cited by the FBI as one of the bases of our authority to conduct intelligence-type investigations vested little, if any, authority in the FBI to conduct such investigations. Professor Elliff reached the same conclusion. Our position paper, however, and our letter to the Attorney General asserted that our intelligence-type investigations are conducted under an umbrella of legislative enactments. Our letter to the Attorney General requested that an Executive order be sought which would clearly delineate FBI authority and responsibility to collect intelligence information for the President in the interest of national security.

Professor Elliff undoubtedly wants to explore further into questions already raised about our jurisdiction and authority. Domestic Intelligence Division stands ready to assist in any discussions Professor Elliff desires to have with the Acting Director. However, for various reasons, it is believed that any such discussions should be postponed until the results could not be used as a political issue during and immediately following the national elections. Also, since we are awaiting important response to our request for an updated Executive order, which could also be delayed until after the elections, it would be more propitious to wait until our request has been handled by the Attorney General.

The Acting Director has publicly announced intention of offering his resignation to the President after the election. There is no question in our mind that this would^{not} be accepted by the President and we can, therefore, expect confirmation procedures by the Senate

CONTINUED - OVER

Memorandum to Mr. W. M. Felt
Re: Professor John T. Elliff
Brandeis University
Request to Interview the
Acting Director and Staff

to begin shortly after the election. We think that issues which are likely to be raised by Professor Elliff in the domestic intelligence field should not be exposed to public view prior to a confirmation hearing.

Therefore, we propose that the attached letter be sent to Professor Elliff suggesting that due to heavy commitments through the next several weeks it is not possible to set a date for an interview with him until at least the latter part of November.

RECOMMENDATION:

That the attached letter to Professor Elliff be sent.

EM

TJS



UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Felt

DATE: 5/22/73

FROM : E. S. Miller

SUBJECT: SECTION 87
MANUAL OF INSTRUCTIONS

Mr. Felt _____
Mr. Baker _____
Mr. Callahan _____
Mr. Cleveland _____
Mr. Conrad _____
Mr. Gebhardt _____
Mr. Jenkins _____
Mr. Marshall _____
Mr. Miller, E.S. _____
Mr. Soyars _____
Mr. Thompson _____
Mr. Walters _____
Tele. Room _____
Mr. Baise _____
Mr. Barnes _____
Mr. Bowers _____
Mr. Herington _____
Mr. Conmy _____
Mr. Mintz _____
Mr. Eardley _____
Mrs. Hogan _____

Attached for approval is complete revision of Section 87 of the Manual of Instructions which governs our basic policies and procedures in handling domestic security matters. This rewrite represents a major step in the evolution of our policies in this area from heavy reliance upon various Presidential Directives dated back to the 1930s to a jurisdictional approach based on existing Federal statutes. As indicated in prior communications, including a detailed "Position Paper" submitted by this Division 7/31/72, we have for some time recognized the need to more closely relate our work in this field to its underlying statutory authority.

Actually, FBI's authority to conduct investigations of subversive elements has not been seriously challenged until recently. There was little, if any, demand that we specify our investigative jurisdiction in terms of statutes. Not only the general public but even our own personnel came to accept the FBI's right to handle internal security matters and to investigate subversive activities without reference to specific statutes. We operated on the basis of custom and precedent supplemented by references to various Presidential Directives issued in the past, notably a September, 1939, Directive of President Roosevelt which charged the FBI with the responsibility to coordinate matters relating to internal security.

This rationale has proved adequate for a number of years. Moreover, we have had tight controls on the handling of these cases

Enclosure

1-Mr. Felt
1-Mr. Miller
1-Administrative Division (Attn: Reilly)
1-Mr. Mintz (Attn: Williamson) 51-102
1-Mr. T. J. Smith
1-Mr. Shackelford
1-Mr. Cotter

10-10-73
100-00-1531
RDC:nlb (8)
100-00-1531

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Memorandum to Mr. Felt
Re: SECTION 87
MANUAL OF INSTRUCTIONS

to preclude any unwarranted or excessive inquiries. Our investigations have been soundly based even though we did not spell out the statutory basis on which they rested.

The need to emphasize our statutory authority more clearly became evident in the Spring of 1971 when Senator Ervin initiated efforts to obtain from the Justice Department the specific guidelines governing the FBI's operation in this area. Later in 1971, Professor John Elliff presented his detailed study of FBI domestic intelligence operations at the Princeton University conference held under the auspices of the Committee for Public Justice. Elliff's study was concerned to a major degree with questioning the validity of the Presidential Directives as a firm basis for our security investigations.

Based on our detailed consideration of this matter, we believe the answer to this matter is relatively simple although it will require some adjustment on our part. We should base our investigations of domestic subversion squarely on statutory basis and make it clear in our communications and reports that this is the case. This is the principal objective of the attached rewrite of Section 87 which includes the following major changes:

(1) Title of Section has been changed from "Security Investigations" to "Investigations of Subversive Organizations and Individuals." We believe the term "security investigations" is too broad and indefinite whereas the new title conveys the idea that investigations covered under this Section (namely, investigations of persons or groups seeking to overthrow or subvert the Government) are directed at a particular type of activity.

(2) We have revamped the basis and criteria for investigations to make it clear throughout that our investigations are based on existing laws, the chief of which are the statutes dealing with rebellion or insurrection (Title 18, U. S. Code, Section 2383), seditious conspiracy (Title 18, U. S. Code, Section 2384), and advocating the overthrow of the Government (Title 18, U. S. Code, Section 2385).

(3) Rules covering Administrative Index (ADEX) have been updated in line with changes approved last Fall. At the same time, the

Memorandum to Mr. Felt
Re: SECTION 87
MANUAL OF INSTRUCTIONS

influence of the ADEX program as a controlling factor in investigations has been eliminated. Revised chapter stresses that ADEX is strictly an administrative device and should not play a part in investigative decisions or policies.

(4) We have eliminated overemphasis on Communist Party (CP) which has characterized this Section in the past. CP is no longer singled out as the prime subversive organization as this is no longer the case.

(5) Instructions regarding FBI responsibilities and agreements with Defense Department agencies regarding individuals employed at key facilities and with private contractors holding defense contracts are being eliminated from Section 87. They will be incorporated in Section 102 (Coordination with Other Government Agencies) where they are believed to more properly belong. This will be handled separately.

(6) Current rule requires that FBIHQ approval be secured for members of other law enforcement agencies to accompany FBI Agents in handling these investigations. This is being revised to provide for SAC approval. Actually, necessity to use officers from other agencies rarely occurs. Where the need does arise, it is believed the SAC should be able to make the decision.

(7) Entire chapter has been streamlined and made more readable and better organized. It is about one-third the size of existing Section.

The new concept advanced in the revised Section 87 with its stress on a statutory approach will no doubt prove to be a difficult adjustment for many of our Agents who have become accustomed to handling these cases under the existing procedures, format, etc., for many years. In addition, there may be some "bugs" in the new system which we have overlooked.

Accordingly, it is felt that we should allow a certain amount of time for the field Agents and Supervisors to review the new procedures

Memorandum to Mr. Felt
Re: SECTION 87
MANUAL OF INSTRUCTIONS

and policies prior to their actual implementation. In this regard, "we will arrange so that when the new chapter has been printed and is being distributed to the field, we will instruct the field by SAC Memorandum that they are not to be put into effect for a certain period of time, for example, 30 days.

During this interval, field will have an opportunity to carefully study the new format and to raise any questions which arise with FBIHQ. In addition, it is believed we should hold several regional-type conferences with key Supervisory personnel of the major security offices to iron out any problems which may exist in connection with converting to the revised format. Such conferences could be led by several knowledgeable supervisors from FBIHQ staff. Such conferences would be invaluable in eliminating misunderstandings or confusion and insuring that we make a smooth adjustment to the new policies.

RECOMMENDATION:

That the attached revision Section 87 be approved. Additional recommendations will be submitted relative to the distribution of this Section when printing is completed and for the holding of regional field conferences.

It is requested that, upon approval, the printing of revised Section 87 be expedited so that we can distribute it to the field as soon as possible. As indicated, there will be some delay involved to allow the field to assimilate the new procedures and we want to keep the overall delay in implementing them to a minimum. *wfd*

EM
WGC
ape
Jfw
gma
(See Addendum page 5)

RL

INTELLIGENCE DIVISION ADDENDUM, 5/30/73, RDC:nlb:

In order to expedite this matter and also allow for possible changes in Section 87 which may be suggested by the field, we will defer the preparation of Section 87 in final form. Instead, we will provide the field with Xerox copies of the attached version for the field's review during the interim period before the new procedures actually take effect. At the conclusion of this period, we will prepare Section 87 in final form for printing and distribution.

WGC

RL
OK
7

SECTION 87. INVESTIGATIONS OF SUBVERSIVE ORGANIZATIONS AND INDIVIDUALS

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1973

RDC: cak
(3)

NOTE: See memo MILLER to FECT,

3/2/73, RDC: cak
5/2/73

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SECTION 87: INVESTIGATIONS OF SUBVERSIVE
ORGANIZATIONS AND INDIVIDUALS

A. GENERAL GUIDELINES

1. Investigative jurisdiction.

FBI investigations under this section are based on specific statutory jurisdiction and Departmental instructions.

- Investigations conducted under this section are to be directed to the gathering of material pertinent to a determination whether or not the subject has violated, or is engaged in activities which may result in a violation of, one or more of the statutes enumerated below; or in fulfillment of Departmental instructions.

There are three principal statutes which provide a basis for these investigations, as follows:

a. Rebellion or insurrection (18 USC 2383).

"Whoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and shall be incapable of holding any office under the United States."

b. Seditious conspiracy (18 USC 2384).

"If two or more persons in any State or Territory, or in any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, they shall each be fined not more than \$20,000 or imprisoned not more than twenty years, or both."

c. Advocating the overthrow of the Government (18 USC 2385).

"Whoever knowingly or willfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of the United States or the government of

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any State, Territory, District or Possession thereof, or the government of any political subdivision therein, by force or violence, or by the assassination of any officer of any such government; or

"Whoever, with intent to cause the overthrow or destruction of any such government, prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter advocating, advising, or teaching the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence, or attempts to do so; or

"Whoever organizes or helps or attempts to organize any society, group, or assembly of persons who teach, advocate, or encourage the overthrow or destruction of any such government by force or violence; or becomes or is a member of, or affiliates with, any such society, group, or assembly of persons, knowing the purposes thereof--

"Shall be fined not more than \$20,000 or imprisoned not more than twenty years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

"If two or more persons conspire to commit any offense named in this section, each shall be fined not more than \$20,000 or imprisoned not more than twenty years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

"As used in this section, the terms 'organizes' and 'organize,' with respect to any society, group, or assembly of persons, includes the recruiting of new members, the forming of new units, and the regrouping or expansion of existing clubs, classes, and other units of such society, group, or assembly of persons."

The courts have interpreted this statute to require advocacy to action, i.e., advocacy to do something, now or in the future, rather than merely to believe in something.

In addition to the three principal statutes outlined above, there are two other statutes which might provide a statutory foundation for an investigation under this section.

These are:

- d. The Internal Security Act of 1950 and the Communist Control Act of 1954 (50 USC 781-810).

In summary, these statutes make it unlawful to knowingly contribute to the establishment of a totalitarian dictatorship within the United States which is controlled by a foreign government, organization, or individual. The statutes also impose various restrictions on the activities of members of organizations cited by the Subversive Activities Control Board (SACB) as "communist action," "communist front," or "communist infiltrated" groups. The restrictions apply principally to employment by the Federal government or by a defense facility.

The former SACB cited only one organization, the Communist Party, USA, which was named as a "communist action" group.

2. Prosecutive determination.
All discussions pertaining to the prosecutive potential of investigations initiated under this section will be conducted by FBIHQ with Departmental officials. These cases should not be discussed with local U. S. Attorney's office without FBIHQ approval.
3. Related statutes.
There are a number of other statutes under the FBI's investigative jurisdiction which should be borne in mind in handling these investigations. Information concerning possible violations of such statutes is frequently developed during these investigations. Where this occurs the field should consider the desirability of conducting investigation in line with the policies and procedures governing the statute in question.

A list of other Federal statutes which may arise during these investigations is outlined in an appendix to this manual, ~~section~~.

4. Definitions.

The term "subversive activities" as used in this section denotes activities which are aimed at overthrowing, destroying or undermining the Government of the United States or any of its political subdivisions by the illegal means prohibited by statutes enumerated in A. 1. above. The term "subversive organization" or "subversive movement" denotes a group or movement which is known to engage in or advocate subversive activities, as defined above.

5. Predication for investigation.

In all cases handled under the provisions of this section, the first communication prepared which indicates an investigation is being initiated (intra-office memorandum, letter, airtel, teletype or report) should show specifically the statute upon which the investigation is based together with all the supporting facts. Such a predication must be included in the first communication to FBIHQ and the first report or LHM prepared in each case. Where investigation has been specifically requested by Department, this should be indicated in predication. The following examples are illustrative; however, the predication for each individual case must be tailored to the circumstances of such case.

a. "This investigation is based on information ^{that/} the subject's activities may be in violation of 18 USC 2383 (Rebellion or insurrection), and 2384 (Seditious conspiracy). A source whose reliability has not been determined has informed that the subject is planning, along with others, to travel to Washington, D. C., on April 30, 1971, to participate in planned violent demonstrations during the first week in May, 1971, to 'shut down the Government.' Demonstration plans include the blocking of streets and highways, destruction of personal and Government property, and physical obstruction to prevent Government employees from reporting to work."

b. "This investigation is based on information ^{that/} the subject's activities may be in violation of 18 USC 2385 (Advocating the overthrow of the Government). The subject is an admitted member (or has been

identified as a member by a confidential source who has provided reliable information in the past) of (name of group). The (name of group) in its public statements and publications advocates the desirability and necessity of overthrowing the U. S. Government by force or violence, and the assassination of U. S. Government officers. The same source has reported that the subject actively supports these positions."

- . If the statutory basis for an investigation should change or be expanded to include an additional statute or statutes, the first communication prepared subsequent to such change or expansion should specifically show such changes. Similarly, this information should be included in the next report or LHM prepared in the case.

6. Accuracy of characterizations.

Assure that statements relating to characterizations of an individual or organization, or relating to affiliations with or membership in any organization, are founded on a firm basis. Identify sources for such characterizations or statements of affiliation or membership if such characterizations, affiliations or memberships are not commonly and publicly known.

7. Investigations and contacts with individuals connected with institutions of learning.

(a) Prior FBIHQ approval is required to:

- (1) Institute investigation of a faculty member or an organization connected with an educational institution.
- (2) Interview any student or faculty member who is not an established source. (Requests to conduct interviews must include individual's name, position, and an assessment of his reliability and discretion.)

(b) Contacts with established sources in an administrative capacity may be made on campus. Contacts with other established sources, e.g., students and non-academic employees, should be made off campus.

8. Use of officers from other agencies.
Members of other law enforcement or intelligence agencies are not to accompany Agents handling these investigations without specific approval by the SAC.

B. INVESTIGATION OF ORGANIZATIONS

1. Purpose

To develop evidence of any violations of statutes enumerated in A. 1. above and to keep the Department and other agencies and officials of the Executive Branch apprised of information developed which pertains to their areas of interest and responsibility.

2. Responsibility to initiate investigations

When information is received indicating an organization may be engaged in subversive activities or may be a front group for subversive organization, field office should initiate preliminary investigation confined to established sources. Notify FBIHQ that investigation has been undertaken. Within 45 days submit results by letter with recommendation as to whether or not further investigation is warranted.

3. Scope of investigation

Pertinent data concerning following items should be obtained and reported:

a. Origin and scope

Date and circumstances of founding including any incorporation data. Identities of organizers. Location of Headquarters and chapters or affiliates, if any.

b. Stated aims and purposes, especially any information showing advocacy of violence or illegal activity.

c. Officers

Principal officers and/or leaders with succinct resume of subversive backgrounds, if any.

d. Membership

Total active membership, including logical breakdowns by organizational structure and geographical area, if applicable. If exact membership figures are not available and estimates are given, be certain they are plainly shown as estimates. In cover pages or cover communications, include evaluation of reliability of membership figures cited, as well as comments concerning any significant factors involving membership, e.g., increases or decreases, notable shift in composition of group by age, sex, nationality, etc. Be certain to secure accurate description of all lists referred to so as to avoid confusion as to exact identity or significance of such lists.

e. Publications

All publications of group with emphasis on any which clearly depict subversive character of organization.

Furnish FBIHQ with copy of publications which portray subversive character of group or which advocate violence. Ascertain sources of funds for publications. When it is operated as distinct entity, a separate investigation should be initiated concerning the publication.

f. Finances

Sources of funds and nature of expenditures, in particular whether any income is received from or contributions made to foreign elements.

g. Connections with other groups

Develop pertinent information concerning ties with other subversive elements including material and/or moral support given or received. Be especially alert to detect connections with foreign subversive elements or indications of foreign allegiance or control. Also determine and report any significant connections or cooperation with nonsubversive groups.

h. Activities

Describe activities of group. Afford special emphasis to any underground operations or activities involving violence or threatened violence. Include any pertinent data showing success or failure of organization in achieving its stated goals.

4. Infiltration of nonsubversive groups

a. General

When information is received indicating that subversive group is seeking to systematically infiltrate and control a nonsubversive organization, available data should be submitted by letter with recommendations as to initiating active investigation. Recommendation to undertake investigation should be supported by available background information concerning target organization (including name and locations, estimated membership, principal officers, and nature of activities) and resume of extent of subversive infiltration efforts (including identities of known subversives who have joined target organization and positions held), provide brief statement as to investigation planned. *and should*
If approved by FBIHQ conduct discreet investigation limited to determining and reporting activities which are related to or in furtherance of subversive infiltration. These instructions apply to local chapter or affiliates as well as national organization.

b. Caption and preface

Caption of communications should show that subversive infiltration of target organization is objective of investigation, not organization itself, e.g.,

"Infiltration of (Name of target organization) by (Name

of subversive organization)." All communications prepared for dissemination should carry prefatory statement which clearly conveys this point, e.g., "This investigation is directed solely towards establishing the extent of infiltration, domination, or control of the (Name of nonsubversive organization) by the (Name of subversive organization). It is not concerned with the normal activities of the (Name of nonsubversive organization)." In addition preface should succinctly show the predication for our investigation of the subversive group involved.

c. Limitations on investigation

- (1) Other than with established sources, no interviews should be initiated with members, leaders, or officers of infiltrated organization without prior FBIHQ approval (except where they can be handled by suitable pretext). However, this does not preclude accepting information volunteered to FBI.
- (2) Informants and sources should not be directed by FBI to join or participate in activities of target organization. However, if subversive group requests informant to do so, latter may comply.
- (3) Be certain all persons interviewed, including informants, are aware that FBI is not interested in normal activities of target organization but solely in efforts to influence or control the organization by subversive elements.

d. Conversion to full scale investigation

If target organization becomes completely dominated and controlled by subversive elements, advise FBIHQ on UACB basis that full investigation being initiated as subversive organization. Drop infiltration designation from title of case.

5. Subversive publications

Each office should review such publications produced in its territory to determine whether any advocate subversion, violence, or violations within FBI jurisdiction. If so, submit available information by LHM to FBIHQ with copy of pertinent material and make recommendations as to further action. Insure that FBIHQ is aware of all subversive publications with brief identifying data.

6. Investigative steps

Efforts should be made to develop reliable informants at all levels and in all segments of subversive organization.

Live informant coverage should be supplemented by other logical investigation including review of appropriate public records and publications,

interviews with former members of group and, on selective basis, through such techniques as physical and photographic surveillance.

7. Administrative and reporting procedures

a. Reporting requirements and status

When necessary data has been developed concerning organization's activities (See B. 2. above), submit report. After initial report, reports should be submitted semiannually (unless FBIHQ has instructed otherwise in individual cases). LHM may be used to provide FBIHQ or other interested agencies with significant data of immediate interest on an interim basis between reports.

b. Informant coverage

Cover pages of reports should include a brief summary of informant coverage available with respect to the organization, identifying informants who report on the group's activities by symbol number and showing specifically which informants are members of the group.

c. Topical headings

Both reports and LHMs should be organized under logical headings.

d. Character

All cases should use character "Internal Security," e.g., "Communist Party, USA; Internal Security."

In case of subsidiary or front group, character should show name or abbreviation of the parent organization, e. g., "Young Workers Liberation League, Internal Security - CPUSA"; "Young Socialist Alliance, Internal Security - SWP." Caption of subversive infiltration cases should include name of subversive group and target organization, e.g., "Infiltration of (Name of target organization) by Socialist Workers Party, Internal Security - SWP."

e. Classification - 100

f. Copies

Furnish 5 copies of reports and LHMs except where instructed otherwise in individual cases.

g. Closing of case

If it is determined subject organization is not currently engaged in subversive activities, submit pertinent facts in closing report.

C. INVESTIGATION OF INDIVIDUALS

1. General policy

a. Purpose

To develop evidence of any violations of the statutes enumerated in A. 1. above and keep the Department and other agencies and officials of Executive Branch advised of information developed which pertains to their areas of responsibility and interest.

b. Individuals to be investigated

Investigations should be conducted to fully identify and determine the activities and affiliations of persons who:

Are reported to be engaged in activities which may result in a violation of statutes enumerated in A. 1. above. This includes individuals who are current active members of subversive organization or movement. Where formal membership in a subversive movement does not exist, it includes individuals who are actively supporting the subversive goals of the movement.

Priority investigative attention should be given to individuals who are known or suspected of being involved in subversive activities which are of a clandestine, underground, or violent nature.

c. Limitations on investigations

All investigations conducted should avoid nebulous or sweeping inquiries which are not relevant to objectives. Under no circumstances should an investigation be conducted of any individual merely on the basis that such individual supports unpopular causes or opposes Government policies.

d. Investigations requiring FBIHQ ~~authority~~ ^{approval}

Obtain FBIHQ ~~authority~~ ^{approval} for investigation of:

- (1) U. S. Government employee
- (2) Officials or employees of United Nations or other public international organizations of a governmental or quasi-governmental nature.
- (3) Officials or employees of foreign diplomatic establishments or governments.
- (4) Faculty members of institutions of learning.
FBIHQ ~~authority~~ ^{approval} is not required for investigation of student or nonacademic employees of institutions of learning in the absence of unusual circumstances. If during a pending investigation it is discovered that the subject fits one of above categories, suspend active investigation and advise FBIHQ with recommendation as to further action.

- e. Members of United States armed forces.
No investigation should be conducted of active or retired members of United States military forces. If it is determined that a subject fits in this category, terminate investigation and promptly furnish pertinent data to appropriate counterintelligence branch of United States armed forces. Advise FBIHQ in form suitable for dissemination.
- 2. Investigative procedures
 - a. Scope of investigation.
Data concerning the following items should be developed and reported, if pertinent:
 - (1) Background information, including
 - (a) True name and aliases.
 - (b) Date and place of birth.
 - (c) Residences, past and present.
 - (d) Occupations and employments, past and present.
 - (e) Citizenship status; where applicable, naturalization data.
 - (f) Family background. If available, include identities of immediate family and any information indicating they are employed in sensitive positions or by U. S. Government. If member of immediate family is known to be engaged in subversive activities, include succinct resume.
 - (g) Military records, including any service in foreign forces.
 - (h) Educational background.
 - (i) Arrest record and disposition of charges.
 - (j) Physical description. Make reasonable effort to secure photograph.
 - (k) Handwriting and/or handprinting specimens should be obtained, if readily available, and kept in case file. Special efforts should be made to secure such specimens with regard to leaders of subversive groups and they should be furnished to FBIHQ by letter for attention of FBI Laboratory to be included in National Security File.

- (2) Subversive activities and affiliations, including
 - (a) Information concerning membership in subversive movements, organizations or front groups, date and circumstances of admission, positions held, and participation in activities of organization (e.g. attendance at meetings or other functions, fund-raising or recruitment efforts on behalf of organization, contributions, etc.)
 - (b) Statements made or other factors which indicate awareness of the subversive nature of group, including involvement in underground operations, and/or in any other illegal or violent actions promoted by organization or movement.
 - (c) Information tending to show subject's importance in subversive movement or organization, e.g., degree of influence and leadership exercised, close association with national or local leaders, participation in policy decisions.

b. Investigative steps

The following steps should be considered, but are not all inclusive.

- (1) File reviews. Office indices should be checked. Any pertinent information developed should be included in initial report. Where logical, check files of other field offices and/or FBIHQ.
- (2) Public source material. Make full use of public records and public sources of information, including hearings of congressional or other Government committees both state and Federal, and publications, including those issued by subversive groups.
- (3) Check of files of other government agencies, both Federal and local, which could logically be expected to have pertinent information.
- (4) Records of private firms. Obtain pertinent available information from records of private firms such as past or present employers. Checks of credit agencies should be limited to securing identifying information only.

- (5) Contacts with neighbors and fellow employees. Such inquiries should be made only where there is expectation they will develop pertinent information not otherwise available.
- (6) Canvass of established sources and informants. Contact informants and sources in position to be knowledgeable concerning subversive groups with which subject is affiliated.
- (7) Physical and photographic surveillances. These should be considered on selective basis when circumstances indicate they may be productive.

c. Interviews of subjects

(1) Policy

Subjects of investigation should be interviewed in the absence of exceptional circumstances. Generally, interviews should be considered after background inquiries have been completed and a good picture of subject's activities developed.

If a decision not to interview a subject is made, this should be fully explained in case file and FBIHQ advised whenever FBIHQ is cognizant of investigation.

(2) Purpose

To develop information regarding subversive activities in which the subject is engaged.

(3) Approval to interview

All interviews of subjects may be approved by SAC except following instances which require FBIHQ approval:

- (a) When subject holds leadership position in subversive organization.
- (b) When subject is nationally prominent or where circumstances otherwise indicate the interview could be widely publicized, such as labor leaders, educators, religious leaders or journalists.
- (c) When interview is to be conducted in presence of subject's attorney and/or aide.

- (d) When subject is connected with institution of learning.
- (4) Letter requesting FBIHQ approval to interview subject.
 - (a) Letter should concisely set out available data concerning following items.
 - I. Residence address, employment, race, date and place of birth, citizenship and any health factors which could affect conduct of interview.
 - II. Marital status, employment and citizenship of spouse.
 - III. Succinct summary of subject's subversive activities, membership or affiliation with subversive groups, ^{and} positions held.
 - IV. Similar summary regarding spouse's affiliation with subversive activities.
 - V. Similar summary concerning subversive activities on part of close relatives.
 - VI. Resume of subject's current sympathies and status in subversive movement or organization and any indication of disaffection.
 - VII. Subject's arrest record and disposition of charges; any information indicating a propensity for violence.
 - VIII. What is expected to be gained by interview.

List above items by number but headings need not be restated. If no pertinent data is available concerning a particular item, so indicate.

- (b) Submit one copy of letter and additional copy of first page only which can be returned by FBIHQ stamped "Approved."
- (5) If interview not conducted within 60 days, submit letter advising FBIHQ:
 - (a) Reason interview not conducted.
 - (b) Any new information pertinent to desirability of interview.
 - (c) Whether efforts to interview subject will be pursued. Thereafter, keep FBIHQ advised at least each 60 days as to progress of matter.

(6) Conduct of interview.

- (a) Interviews of subjects entitled to the warning and waiver shall be conducted in accordance with the requirements set forth in Volume I, Manual of Instructions, Section 2B, page 15. If the interview is being conducted for intelligence information rather than an admission or confession of guilt, no warning is required. Moreover, if the investigation has failed to develop information indicating a possible violation of Federal law by the subject, it would be permissible to interview the subject without a warning as he does not fit the criteria of those entitled to a warning of rights. Carefully plan interview so there will be no compromise of sources, sensitive techniques or interviewing personnel. An overriding consideration to always bear in mind is that interview should elicit from, not provide information to the subject.
- (b) Interview at subject's place of employment should be avoided if possible. If attorney or aide is present during interview, interview must be conducted by two Agents.
- (c) If, during conduct of interview subject desires that his attorney or aide be present, the interview should be tactfully terminated, and FBIHQ should be informed with recommendation whether or not to resume interview.
- (d) In all other instances, SAC has responsibility and option of deciding when two Agents should handle interview. Safety of Agents is first priority to consider.

(7) Direction of subject's activities.

Prior FBIHQ approval is required before taking any steps to direct the subject's activities even though he may appear to be cooperative during the interview.

(8) Reporting results of interview.

- (a) Record results of interview on FD-302.
- (b) Pertinent results of interview should be included in next report or LHM unless circumstances indicate need for more expeditious reporting. In cover letter or administrative pages, include observation of interviewing Agents as to subject's cooperativeness, any relevant information concerning subject's appearance or characteristics, and assessment of information developed by interview in light of other data known to your office.

2. Reporting Procedures

a. General

- (1) Pertinent information developed during investigation may be reported either by report or LHM.

Reports should be submitted:

- (a) When setting out results of extended inquiries such as summary of subject's activities.
- (b) When subject is being recommended for inclusion in ADEX.

LHM should be used to report timely or significant information regarding subject's current activities.

- (2) All communications should be limited to:
 - (a) Information regarding subject's subversive activities, sympathies and affiliations.
 - (b) Pertinent background data concerning subversive individuals or groups with which subject is connected.
 - (c) Essential background data regarding subject.

They should not include information regarding subject's social or personal affairs or other background data not relevant to subject's subversive activities or affiliations.

- (3) Information in both reports and LHMs should be organized under topical headings. Main headings and subheadings should be employed to make the communication as readable as possible.

b. Summarizing information.

When reporting information of repetitious or cumulative nature, such as attendance at regular meetings of subversive group, use summary narrative statements. Exact dates are not needed, but time period involved should be indicated. Summary statements must be statements of facts and not conclusions. Information from different

sources should be reported separately and any significant items must be set forth in detail.

c. Administrative or Cover Pages

(1) Material to be included

Pertinent information concerning following should be included in administrative pages of report or cover communication of LHM: References to other reports or correspondence, ADEX status, reference to security flash notice (FD-165) or transfer of origin (FD-128), reason for classification, if any, documentation of data contained in report or LHM, identities of confidential sources, leads, and other administrative or noninvestigative material. Use form (FD-305) for ADEX cases. If used, nonsymbol source page should be last page.

(2) Documentation

- (a) In documenting information originating with another field office, file number of original document need not be shown provided source, date information received, and receiving Agent are identified.
- (b) Do not conduct extensive inquiries to document background information.
- (c) In characterizing persons who associate with subject, identify source but further documentation not required.

d. Office of Origin

Office covering place where subject's principal subversive activities occur or originate should be origin. In unusual circumstances where there is doubt as to which office should be origin, request FBIHQ to designate office of origin.

e. Title of communications

Normally, only one subject should be carried in title of each report or LHM and separate reports should be submitted for each subject regardless of relationship. However, when reporting virtually identical information concerning two related individuals (e.g. travel data concerning a husband and wife) an exception can be made and single LHM or report submitted. In such cases dual captions should be used and an extra copy of communication provided.

f. Classification - 100

g. Character

(1) Designation "Subversive Matter" (or abbreviation SM) should be used in all cases. Add organizational affiliation when chief group with which subject is connected is under current investigation or has approved thumbnail sketch.

Example: Subversive Matter - CPUSA
Subversive Matter - SWP

(2) Where meaningful organization affiliation cannot be shown, use caption "Subversive Matter."

h. Copies of reports or LHMs.

In all instances furnish four copies to FBIHQ to cover dissemination to Department (2) and Secret Service (1). Where it appears dissemination will be made to other agencies at FBIHQ level, furnish one additional copy for each such agency involved.

i. Status

Carry cases as pending until logical inquiries aimed at resolving purpose of investigation have been completed. As minimum, case should be kept pending until essential background data regarding subject has been secured and sufficient information developed to present good picture of nature and extent of subversive activities engaged in by subject.

j. Closing and reopening of cases.

If it is determined that subject's current activities do not involve an actual or potential violation of one or more of the statutes enumerated in A. 1. above, case should be closed.

Case may be reopened at a later date if additional information is received which indicates subject's subsequent activities involve or may result in a violation of the statutes cited in A. 1.

k. Subject traveling abroad (Also see section 105G, Volume IV, of this manual).

Take following action when information is received that subject of current investigation intends to travel abroad or has departed on foreign travel (except where travel is of brief duration and is known to be for innocuous purpose, such as vacation):

- (1) Immediately notify FBIHQ of available details concerning travel, including places and dates of departure and intended return, destination, itinerary, purpose of trip, and pertinent passport data. Include full description of subject, including aliases. Set out concise resume of available subversive data regarding subject. Do not delay advising FBIHQ while developing details if time is of essence.
- (2) If necessary, set out lead for WFO to check records of Passport Office, Department of State.
- (3) Pertinent information is furnished Department of State, Central Intelligence Agency (CIA), and interested Legal Attaches. Furnish FBIHQ with six copies of LHM (2-Department, 1-Secret Service, 1-State, 1-CIA) plus an additional four copies for each Legal Attache Office which covers area in subject's itinerary (1-Legat, 3-Legat's sources). Also, furnish one copy of subject's photograph, if available, for each Legat Office involved. If stop should be placed with security services abroad, so indicate in cover letter. Set out requests for investigation abroad on separate numbered page captioned "Leads" at end of LHM. Request should not refer to Legal Attache or request investigation by any particular service.
- (4) Advise FBIHQ promptly by LHM of subject's return. If subject has traveled to a communist country, furnish recommendation as to interview and advise whether additional investigation being conducted.
- (5) Take following action when information is received that organization or individual engaged in subversive activities is forming tour group for foreign travel:
 - (a) Advise appropriate offices, under caption of tour group or organization, as to identities of individuals participating in tour and furnish LHM to FBIHQ for dissemination to State Department, CIA, and interested Legal Attaches. Include readily available information pertaining to tour, such as itinerary, dates, names, and addresses of participants, and thumbnail sketch of organization or individual sponsoring tour.

(b) Other offices should immediately identify participants residing within their respective territories and submit LHMs on those of security interest. Refer to LHM previously prepared under caption of tour group or organization. In cover letter, list participants on whom there is no subversive information.

1. Submission of information on members of subversive groups.

- (1) Offices covering national headquarters or local units of subversive groups should promptly furnish FBIHQ names and identifying data regarding persons affiliated with such groups. Furnish information by letter, and indicate list is being furnished for indexing purposes.
- (2) Information regarding subversive affiliation of individuals residing in territory of other offices should be furnished to latter.
- (3) Subscription lists of publications of subversive organizations should be indexed in field office covering address shown for subscriber but should not be forwarded to FBIHQ.

m. Control files on former members of subversive organizations.

- (1) Offices having sufficient volume should maintain control files on former members of subversive organizations. Such files will preclude necessity for extensive file reviews to identify persons who are in position to furnish information of value in particular cases.
- (2) Where appropriate, make copies of communications for these files. In so far as practical these files should contain following information regarding ex-members of subversive groups: background, type of information possessed, time period covered, availability for interview and for testimony.

n. Channeling information to case files

- (1) Memoranda regarding membership or activity in subversive organizations, including summaries of informant reports, should be channeled to case files of individuals involved. When information from informants or surveillances is channeled to individual case files, it should be documented.

- (2) When preparing lengthy 'channeling memoranda reporting material of interest to other offices, limit number of copies prepared to two for each other office. Clearly indicate next to names of other offices the page number containing information of interest and note on cover page that distribution of material to individual case files should be handled by recipient offices.
- o. Movement of subjects between offices.
If office of origin receives information that subject of current or past investigation changes residence to territory of another division, office of origin request verification within 30 days. If new residence confirmed, office of origin submit FD-128 to transfer origin.

D DISSEMINATION OF DATA DEVELOPED

1. General Policy

Information developed during these investigations should be furnished to other agencies in Executive Branch which have a legitimate interest. See MRR, part II, section 5, pertaining to Bureau's overall responsibilities and policies in dissemination.

Do not disseminate earlier reports without reviewing them to insure they meet current reporting standards. If they are unsuitable for dissemination, prepare LHM containing pertinent information.

2. Specific requirements

Following instructions cover representative situations which occur frequently.

a. Members of armed forces

Delimitation: Agreement between FBI and armed forces intelligence agencies (see section 102B, volume IV, of this manual) requires free exchange of all information of mutual interest between subscribing agencies. Immediately refer any derogatory or possibly significant information developed concerning members of military services, including contacts with individuals or groups of security interest, to military service having primary responsibility.

If it is determined subject of FBI investigation is member of armed services, discontinue immediately, advise FBIHQ and disseminate pertinent information locally to appropriate intelligence agency. If it is determined subject has close relatives in armed forces, promptly advise appropriate military intelligence service, and furnish pertinent information, including reports, on subject involved. Evaluation of such association lies entirely within province of military intelligence service.

In all instances, advise FBIHQ concerning any possible subversive contacts or derogatory information developed concerning military personnel, including local dissemination made. Enclose four copies of LHM or report setting out pertinent data.

- b. Aliens and naturalized citizens
Furnish any information which might have bearing on their deportation or denaturalization to Immigration and Naturalization Service, (INS) locally.
- c. Individuals employed in or having access to Key Facilities, or employees of private contractors of the Armed Forces.
Under Delimitations Agreements, FBI is responsible to disseminate pertinent data to the counter-intelligence agencies of the Armed Forces. See section 102, volume IV, of this manual for details.
- d. Employees of public utilities (including state and municipal facilities).
Disseminate pertinent data locally to Army and any other Federal agency whose interest is apparent.
- e. Members of military reserve branches or National Guard.
Disseminate pertinent security data locally to appropriate military intelligence service.
- f. Seamen and subjects employed in maritime industry, including longshoremen and waterfront employees.
Disseminate pertinent security data locally to Coast Guard and, when circumstances dictate, to other interested agencies.
- g. Employees of Federal Government. intelligence agencies, including Any subversive information received concerning an NISO employee of an agency of the Executive Branch should be promptly forwarded to FBIHQ for dissemination to interested agencies. No dissemination of reports in Security of Government Employee cases should be made in field. Instructions regarding all phases of FBI responsibilities under EO 10450 are in section 19, volume II, of this manual.
- h. Individuals who own property or reside in immediate vicinity of installation or other premises under jurisdiction of branch of armed services.
Disseminate pertinent data locally to appropriate military intelligence service.
- i. Airmen licensed by Federal Aviation Administration (FAA).
FAA issues certificates to airmen (pilot, mechanic, or member of crew); to individuals directly in

charge of inspection, maintenance, overhauling, or repair of aircraft; and to aircraft dispatchers or air-traffic control tower operators.

Furnish pertinent data concerning such persons to FBIHQ by report or LHM. In cover communication, recommend dissemination to FAA.

j. Dissemination to Secret Service.

Under agreement between FBI and Secret Service concerning protective responsibilities dated 11/26/71 (set out in section 102, volume IV, of this manual), reports and LHMs are disseminated to Secret Service both locally and at FBIHQ in all cases which meet standards set forth. This includes virtually all cases on individuals where any substantial information exists as to subversive activities or sympathies of subject. When photographs are available send copies to Secret Service locally and to FBIHQ for dissemination at headquarters level.

- (1) Secret Service should be advised of reason for referral; i.e., statement of class or classes of agreement which applies to subject. FD-376 serves as letter of transmittal for both local and FBIHQ dissemination. Forward original and one copy to FBIHQ and maintain copy in case file.
- (2) After initial dissemination, as changes occur in residence and employment, advise Secret Service locally by FD-366 and furnish two copies to FBIHQ. FD-366 must be submitted even though changes in residence and/or employment are noted in report or LHM being submitted.
- (3) For instructions governing dissemination to Secret Service in matters involving threats against President, refer to section 134B, volume IV, of this manual.
- (4) Upon transfer of office of origin, old office of origin should furnish Secret Service locally with subject's new residence and business address by LHM or FD-366. Provide copies to FBIHQ and new office of origin for dissemination to Secret Service headquarters and branch office covering new residence, respectively.

(5) As an administrative aid to insure proper dissemination, the file covers of cases in which dissemination is being made to Secret Service may be stamped "SS."

3. Restrictions on field dissemination.

If security measures are known to be inadequate at local office of another Government agency, do not disseminate locally, but bring matter to attention of FBIHQ for headquarters dissemination.

3. ADMINISTRATIVE INDEX (ADEX)

1. Purpose and general policy

- a. To have a readily available and up-to-date listing of individuals deemed currently dangerous to the national security. Objective is to identify individuals who should be afforded priority investigative coverage in the event of a national emergency.
- b. Under no circumstance should individuals be included in ADEX merely because of their opposition to Government policies or because of the exercise of their constitutional rights of protest and dissent.
- c. ADEX is strictly an administrative device. It should not be treated as a factor in determining basic investigative decisions, i.e., whether an investigation should be opened or closed, the extent of investigation to be conducted in a particular case, etc.

2. Criteria

- a. ADEX should include individuals whose actions or statements have established that they represent a current threat to the national security, i.e.:
Individuals (whether affiliated with organized groups or not) who have shown a willingness and capability of engaging in treason, rebellion or insurrection, sedition, sabotage, espionage, terrorism, guerrilla warfare, assassination of government officials, or other such acts which would result in interference with or a threat to the survival and effective operation of national, state or local government.
- b. This would include leaders of organizations whose aims include the overthrow or destruction of the Government of the United States or the government of any State, Territory, district, or possession thereof, or the government of any political subdivision therein, by unlawful means. The term "leader" denotes those individuals, irrespective of title, who are in a position to significantly influence the policies or direct the activities of the group. Mere membership in an organization, without the element of leadership or without a demonstrated willingness and capability described in paragraph a, is not sufficient for inclusion in ADEX.
- c. Individuals should be considered a "current threat" to the national security when reliable information has been developed that they have engaged in activity

or exhibited the requisite willingness and capability falling within the above-described criteria during prior two years and there is no indication they have ceased such activity. However, there may be instances where retention of an individual in ADEX is justified even though no pertinent information is available during the prior two years. For example, such retention might be warranted in the case of individuals who have gone into hiding, temporarily left the country, or been imprisoned.

- d. ADEX should not include individuals who may be ideologically committed to a philosophy which calls for the downfall of our form of government or which favors another form of society but who have not shown a current willingness or capability of engaging in meaningful action to promote their beliefs. This might apply, for example, to rank-and-file members of the Socialist Workers Party or the Communist Party, USA, or other old-line revolutionary groups which have advocated an overthrow of our present form of government but where subject's activity is primarily ideological in nature and not oriented toward action. Each case should be reviewed on an individual basis in the light of the criteria enumerated above.

3. Recommendation for preparation of ADEX card.

- a. When dangerousness of subject has been established, office of origin should prepare recommendation on FD-122, in triplicate. Forward original and copy to FBIHQ, and place copy in subject's file.
- b. Attach additional page or pages to FD-122 setting out succinct summary of facts on which recommendation based.
- c. Non-prosecutive summary report should be submitted when subject is recommended for ADEX unless one was previously furnished to FBIHQ. In latter instance, submit up-to-date report.
- d. Do not delay recommendation for ADEX because of absence of complete background or descriptive data.
- e. Do not defer recommendation for ADEX because subject is missing, temporarily out of the country, or in prison.
- f. If FBIHQ approves recommendation, ADEX cards will be prepared including two copies for field. Copy of FD-122 will be returned stamped "ADEX card approved, copies attached." Check cards for accuracy.

Place one in alphabetical section of field office ADEX and other in either geographical section or unavailable section.

- g. When subject is approved for ADEX, submit Security Flash Notice (FD-165) to check records of Identification Division and post flash notice if fingerprints of subject are on file. FD-165 will be returned if positive identification cannot be made. In latter event, FD-165 should be submitted every two years as long as subject remains on ADEX and no fingerprint record has been located. These submissions should be timed to coincide with biennial review of case.

4. Format of ADEX card

- a. Data to appear on face of card

Itemized below are descriptive categories in which subject may be classified and corresponding abbreviations for use on FD-122 and ADEX card.

- | | | |
|-----|-------------------------------------|-----|
| (1) | Full name and aka's | |
| (2) | Date and place of birth | |
| (3) | Race | |
| | White | W |
| | Black | B |
| | Other | O |
| (4) | Sex | |
| | Male | M |
| | Female | F |
| (5) | Citizenship | |
| | U. S. Citizen | CT |
| | Alien | AL |
| (6) | Residence address | |
| (7) | Employment (occupation and address) | |
| (8) | Type of activity | |
| | Black Extremist | BEX |
| | Communist (pro-Chinese) | CMC |
| | Communist (pro-Soviet) | CMS |
| | Communist (Trotskyist) | CMT |
| | Foreign Nationality | FRN |
| | Puerto Rican Nationalist | PRN |
| | Revolutionary | REV |
| | Miscellaneous | MSC |

Activities connected with "New Left" or anarchistic elements should be shown as "Revolutionary." The term "Foreign Nationality" covers foreign-directed subversion, e.g., Soviet or Chicom espionage, Arab terrorism. The abbreviation FRN should be followed by nationality involved e.g. FRN-Arab, FRN-Cuban.

- (9) Special Interest
 - Espionage Subjects ESP
 - Foreign government employees FGE
 - U. S. Government employees GOV
 - (10) Unavailable section
 - Missing MI
 - Out of country OC
 - Imprisoned PR
 - (11) Key facility geographical reference number (obtained from Department of Defense Key Facilities List), if applicable, and agency having security responsibility, which is Army.
 - (12) Field office and FBIHQ file numbers
- b. Data to appear on separate card attached to ADEX card in geographical or unavailable section.
- (1) Physical description
 - (2) Photograph, with date taken. It should be most current or best likeness of subject available.
 - (3) Dangerous characteristics of subject, e.g., notation if subject carries firearms.
 - (4) Any special information needed to locate subject.
 - (5) Notation that security flash notice (FD-165) has been posted with Identification Division
 - (6) FBI number and fingerprint classification, when available.

Case should normally be kept pending to secure all pertinent identifying data enumerated in paragraphs a. and b. above. However, if it appears a considerable amount of effort would be required to obtain a particular item, use judgment in deciding whether to continue in pending status solely for this purpose.

Use FD-186 to report above information. File in case file.

5. Arrangement of ADEX

a. At FBIHQ.

Index is printed on IBM cards, two copies of which are sent to field. An alphabetical breakdown of true

names and all aliases of subjects is maintained at FBIHQ

b. In field office

Index is maintained in three sections:

(1) Alphabetical section

This section includes one complete set of current ADEX cards.

(2) Geographical section

This section includes ADEX cards of all subjects except those who are missing, temporarily out of the country, or in prison. Geographical section is broken down by residence address in accord with needs of each office, e.g., by state, county, city, or if needed, into boroughs or suburbs. Cards are filed alphabetically under each such breakdown.

(3) Unavailable section

This section includes cards of individuals who are missing, out of the country for an indefinite period, or imprisoned, broken down into three corresponding subsections.

(a) Missing subjects

(b) Subjects out of country for indefinite period
Include foreign residence and employment addresses on FD-122, if known. Place stops with INS to be advised of subject's return. Verify foreign residence annually.

(c) Subjects imprisoned.

Identify institution in which subject is incarcerated on FD-122. Request prison authorities to notify us of subject's release and set tickler to verify.

6. Special interest subjects

Following classes of individuals could be of special interest in national emergency:

(1) Espionage subjects

Any action taken in these cases should be handled, if possible, in such manner as to not destroy the opportunity to penetrate an active espionage network.

(2) Foreign government employees

Any action taken in these cases must be handled so as to minimize the possibilities of diplomatic repercussions.

(3) U. S. Government employees

These subjects are of special interest to Department of Justice.

Cards on "Special Interest" subjects should be filed in regular sequence with other ADEX cards.

7. Changes in residence and employment of ADEX subjects.
 - a. Develop sources to insure that any such changes are promptly brought to our attention.
 - b. Submit FD-122 whenever changes occur. Also submit FD-366 to FBIHQ and Secret Service locally.
8. Changes in other background data.
 - a. Submit any changes, additions, or deletions in data required by FD-122 in an updated FD-122. If item being deleted, specify "Delete."
 - b. Make notations concerning change on existing ADEX card pending receipt of revised card from FBIHQ.
9. Movement of ADEX subjects between offices
 - a. Requests from other offices to verify addresses of subjects should be handled within thirty days.
 - b. Upon verification of new address, office of origin submit FD-128 transferring origin. Furnish original and copy to FBIHQ and two copies to office covering new address enclosing copies of previous reports, other pertinent serials, photograph if available, and ADEX cards.
 - c. If flash notice (FD-165) has been placed with Identification Division, note on FD-128 and designate extra copy for FBIHQ, attention Identification Division.
 - d. Old office of origin submit current report or LHM whenever there is pertinent information to report. Do not delay submission of FD-128 solely for preparation of report of LHM, but note on FD-128 latter being prepared. Old office of origin furnish Secret Service locally with subject's new residence and business addresses by FD-366 and provide copies to new office of origin for dissemination to Secret Service there.
 - e. If new office of origin plans no further investigation, advise FBIHQ by letter that case is being closed.
10. Subject entering U. S. armed forces
Submit FD-122 to cancel ADEX and FD-366 to advise Secret Service, furnishing copy of latter to local Secret Service office. Be certain interested military agency has been forwarded all pertinent subversive data regarding subject and is aware of subject's entry into armed forces. Where appropriate, prepare up-to-date LHM or report for dissemination to military agency and to Secret Service both at FBIHQ and field level. While subject is serving in armed forces, appropriate military agency has

complete jurisdiction over his activities and no active investigation should be conducted by FBI. Geographical card for subject should be filed in case file marked "canceled," and alphabetical card destroyed. When subject returns to civilian status, determine if activities warrant inclusion in ADEX. If so, submit FD-122 so recommending as well as current report. If not, advise FBIHQ by letter.

11. Removal of cards from ADEX

Subject should be removed from ADEX for any of the following reasons:

- a. Death
- b. Permanent departure from U. S. or Puerto Rico
- c. Designation as security informant
- d. Subject no longer falls within ADEX criteria

In all of the above cases recommend removal from ADEX by FD-122 with attached succinct summary of facts. In all instances except c.; submit current LHM or report for dissemination to Secret Service at FBIHQ. and also furnish report or LHM to Secret Service locally.

12. Reevaluation of ADEX status.

Prepare administrative tickler concerning each ADEX subject to come up at two-year intervals. This tickler, which is independent of any assignment card, should prompt careful assessment of case to insure subject still falls within ADEX criteria.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. E. S. Miller *EM/c*

FROM : T. J. Smith *TJS*

SUBJECT: REVISION SECTION 87
MANUAL OF INSTRUCTIONS

DATE: 6/8/73

- 1 - Mr. E. S. Miller
- 1 - Mr. R. D. Cotter
- 1 - Mr. Mintz (Office of Legal Counsel)
- 1 - Mr. T. J. Smith
- 1 - Mr. J. F. Miller
- 1 - Manuals Desk

Mr. Felt _____
Mr. Baker _____
Mr. Callahan _____
Mr. Cleveland _____
Mr. Conrad _____
Mr. Gebhardt _____
Mr. Jenkins _____
Mr. Marshall _____
Mr. Miller, E.S. _____
Mr. Soyars _____
Mr. Thompson _____
Mr. Walters _____
Tele. Room _____
Mr. Baise _____
Mr. Barnes _____
Mr. Bowers _____
Mr. Herington _____
Mr. Conmy _____
Mr. Mintz _____
Mr. Eardley _____
Mrs. Hogan _____

A recent proposed revision of Section 87 of the Manual of Instructions (MOI) has been approved and is in the process of being printed.

This revision makes reference to an MOI appendix enumerating statutes, evidence of violations of which may be developed during investigations of domestic subversive organizations and individuals and foreign counterintelligence investigations.

All personnel conducting these types of investigations should be aware of these statutes and alert for evidence of such violations.

Attached is proposed appendix.

ACTION:

Attached be approved and prepared for Manual of Instructions along with approved Section 87 revision.

Enclosure

JFM:rlc
(7)

ENCLOSURE

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

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This seems to duplicate material in the manuals but if it will provide material assistance it should be included. *JFM*

APPENDIX

Evidence of violations of the following statutes may be developed during investigations of domestic subversive organizations and individuals and foreign counterintelligence investigations. All personnel engaged in such investigations should be aware of these statutes. Refer to the United States Code Annotated for full presentation of the statute and its judicial case history.

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ACTIVITIES AGAINST FOREIGN GOVERNMENTS

18 U.S.C. 956. Conspiracy to Injure Property of Foreign Governments

Prohibits conspiracies of two or more persons within the jurisdiction of the United States to injure or destroy any railroad, canal, bridge, or other public utility or specific property situated in a foreign country and belonging to a foreign government or political subdivision thereof with which the United States is at peace. Commission of an act within the jurisdiction of the United States by one or more of the conspirators to effect the object of the conspiracy penalizes each of the parties to the conspiracy.

18 U.S.C. 958. Commission to Serve Against a Friendly Nation

Prohibits any United States citizen within the jurisdiction of the United States from accepting and exercising a commission to serve a foreign prince, state, colony, district or people, in war against any prince, state, colony, district or people with whom the United States is at peace.

18 U.S.C. 959. Enlistment in Foreign Service

Prohibits anyone in the United States enlisting or entering himself or hiring another to enlist or enter, or leaving the jurisdiction of the United States with intent to enter or enlist in the military service of any foreign power.

18 U.S.C. 960. Expedition Against Friendly Nation

Prohibits anyone in the United States from knowingly taking part in or supporting any military or naval expedition or enterprise against the territory or dominion of any foreign power with whom the United States is at peace.

18 U.S.C. 961. Strengthening Armed Vessel of Foreign Nation

Penalizes anyone in the United States who strengthens any armed vessel in the service of any foreign power which is at war against any foreign power with whom the United States is at peace.

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18 U.S.C. 962. Arming Vessel Against Friendly Nation

Penalizes:

(1) Anyone within the United States who attempts to or does arm any vessel, with the intention that the vessel shall be employed by a foreign power, to commit hostilities against any foreign power with whom the United States is at peace, or

(2) anyone who commissions any vessel with the above intent.

Bureau Classification 2
Manual of Instructions

Volume III, Section 75

ADVOCATING THE OVERTHROW
OR DESTRUCTION OF THE GOVERNMENT;
OPPOSING BY FORCE THE AUTHORITY OF THE
GOVERNMENT; RELATED ACTIVITIES

18 U.S.C. 2381. Treason

Penalizes anyone who, owing allegiance to the United States, levies war against the United States or adheres to their enemies giving them aid and comfort within the United States or elsewhere.

Note that this codifies the crime of treason as defined in the Constitution. It does not extend or restrict or provide a new definition for the crime of treason.

Bureau Classification 61
Manual of Instructions

Volume IV, Section 95

18 U.S.C. 2382 Misprision of Treason

Penalizes anyone who owing allegiance to the United States and having knowledge of the commission of treasonable acts conceals and does not disclose such information to an appropriate official.

Bureau Classification 61
Manual of Instructions

Volume IV, Section 95

18 U.S.C. 2383. Rebellion or Insurrection

Penalizes anyone who incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto.

Bureau Classification 100
Manual of Instructions

Volume III, Section 87

18 U.S.C. 2384. Seditious Conspiracy

Penalizes each member of a conspiracy involving two or more persons in any State or Territory, or in any place subject to their jurisdiction, who conspires to overthrow the Government of the United States, levy war against them, oppose by force the authority thereof, or by force prevent, hinder, or delay the execution of any law of the United States or by force seize, take or possess any property of the United States contrary to the authority thereof.

Bureau Classification 100
Manual of Instructions

Volume III, Section 87

18 U.S.C. 2385. Advocating Overthrow of Government
(The Smith Act)

Penalizes (1) anyone who knowingly and willingly^{SW} advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the Government of the United States, any State, Territory, District or Possession of the United States, by force or violence or by assassination of any officer of such government; (2) anyone who with intent to cause the overthrow or destruction of any such government, prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter, advocating, advising or teaching the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence, or attempts to do so; (3) anyone who organizes, helps or attempts to organize any society, group or assembly to engage in above-

listed activities or becomes a member of, or affiliates with such a group knowing its purpose to be overthrow of the government by force or violence; (4) anyone participating in a conspiracy to commit any above-named activities.

Bureau Classification 100
Manual of Instructions

Volume III, Section 87

ANTIRIOT LAWS

18 U.S.C. 2101. Riots

Prohibits travel in or use of interstate or foreign commerce with intent to incite a riot or organize, promote, encourage, participate in or carry on a riot, or commit any act of violence in furtherance of a riot, or aid or abet any person in inciting or participating in a riot, or perform or attempt to perform any overt act to incite or participate in a riot.

18 U.S.C. 2102. Definitions

(a) "Riot" herein means a public disturbance involving (1) an act or acts of violence by one or more persons part of an assemblage of three or more persons which act or acts constitute a clear and present danger of or shall result in damage or injury to the property of any other person or to the person of any other individual or (2) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of or would result in damage or injury to the property of any other person or to the person of any other individual.

(b) The term "to incite to riot" or "to organize, promote, encourage, participate in, or carry on a riot" includes but is not limited to urging or instigating others to riot. It is not deemed to mean the mere oral or written advocacy of ideas or expression of belief.

18 U.S.C. 231. Civil Disorders

Prohibits:

(1) Teaching or demonstrating to any other person the use, application or making of any firearm, explosive or incendiary device, or technique capable of causing death or injury with knowledge or intention that they will be used in a civil disorder affecting commerce or a federally protected function;

(2) Transportation or manufacture for transport in commerce any such firearm, explosive or incendiary device, with knowledge or intention that the same will be used unlawfully in furtherance of a civil disorder;

(3) Interference or attempts to interfere with any fireman or law enforcement officer engaged in the performance of his duties during a civil disorder which affects commerce or any federally protected function.

18 U.S.C. 232. Definitions of "Civil Disorder," "Commerce," "Federally Protected Function," "Firearm," "Explosive or Incendiary Device," "Fireman," and "Law Enforcement Officer."

18 U.S.C. 233. Preemption

Congress did not preempt this field to the exclusion of State or local laws and no provision of this statute is to be construed to invalidate any State law unless the State law is inconsistent with the purpose of this statute.

Bureau Classification 176
Manual of Instructions

Volume IV, Section 136

ATOMIC ENERGY ACT OF 1954

Unless authorized by the U. S. Atomic Energy Commission or under international agreement, the Act prohibits the activities enumerated in 42 U.S.C. 2077, 2122, 2131 below:

42 U.S.C. 2077. Unauthorized Dealings in Special Nuclear Material

(a) Transferring or receiving in interstate commerce or transferring, delivering, acquiring, owning, possessing, or receiving possession of or title to, or importing into or exporting from the United States any special nuclear material;

(b) Engaging in the production of any special nuclear material outside the United States;

42 U.S.C. 2122. Prohibitions Governing Atomic Weapons

Transferring or receiving in interstate or foreign commerce or manufacturing, producing, transferring, acquiring, possessing, importing or exporting any atomic weapon.

42 U.S.C. 2131. Production Facility

Transferring or receiving in interstate commerce, manufacturing, producing, transferring, acquiring, possessing, using, importing or exporting any utilization or production facility.

42 U.S.C. 2138. Suspension of Licenses During War or National Emergency

The Atomic Energy Commission, whenever Congress declares that a state of war or national emergency exists is authorized to suspend any license, to recapture special nuclear material and to order the operation of any licensed facility.

42 U.S.C. 2165. Security Restrictions

(d) Investigations by the FBI

If a personnel investigation of an Atomic Energy employee develops any information that such individual is of questionable loyalty, the matter must be referred to the FBI for a full field investigation.

(e) FBI investigation of any individual to be employed or licensed by the Atomic Energy Commission may be required by the President.

(f) The FBI is required to investigate individuals to be named to positions with a high degree of importance or sensitivity with the Atomic Energy Commission.

RESTRICTED DATA

"Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy. Anyone with the intent or reason to believe that the U. S. will be injured or a foreign nation be given an advantage is prohibited from:

42 U.S.C. 2274, 5, 6, 7. Communicating, Transmitting or Disclosing Restricted Data to Any Person; Acquiring Restricted Data; Tampering with Restricted Data; or Disclosing Restricted Data to One Known or Believed Not to Be Authorized to Receive It

42 U.S.C. 2278a. Trespass Upon Commission Installations; Issuance and Posting of Regulations

Prohibits willful violations of entry and other regulations of Atomic Energy Commission facilities.

42 U.S.C. 2278b. Photographing, etc., of Commission Installations

Prohibits photographing, sketching, etc., of Atomic Energy Commission installations or facilities, information about which is protected against general dissemination.

Bureau Classification 117
Manual of Instructions

Volume II, Section 20

BOMB THREATS - BOMBINGS -
INTERSTATE TRANSPORTATION OF EXPLOSIVES

The FBI and the Treasury Department have concurrent jurisdiction by statute; however, the Department of Justice has established guidelines providing that the FBI will handle subsections (e), (f) and (g), Treasury will handle subsections (d) and (i), and subsection (h) will be handled by the agency having jurisdiction over the underlying felony. Violations directed against diplomatic functions will be handled by the FBI. Each agency handles violations directed at its own functions, and postal authorities handle violations directed against that agency's functions as well as matters involving explosives sent through the mail.

18 U.S.C. 844. Prohibits:

- (d) Interstate transportation of explosives or incendiary devices with intent to injure or intimidate a person or damage property.
- (e) Use of telephone, mail or other instrument of commerce to transmit a bomb threat.
- (f) Use of explosives or incendiary devices to damage any property owned or used by the U.S. Government or any institution or organization receiving Federal financial assistance.
- (g) Unauthorized possession of explosives or incendiary devices in a building owned or used by the U. S. Government.
- (h) Carrying or using explosives or incendiary devices during the commission of any Federal felony.
- (i) Use of explosives or incendiary devices to damage any property used in an activity affecting interstate commerce.

Bureau Classification 174
Manual of Instructions

Volume II, Section 23

CIVIL RIGHTS

18 U.S.C. 245. Federally Protected Activities

Prohibits willful injury or interference with
(1) persons in the exercise of certain enumerated rights
by force or threat of force, whether or not the offenders

are acting under color of law; (2) persons voting in any election, participating in benefits of Federal programs or facilities, applying for or enjoying Federal employment or serving as Federal jurors; (3) persons on account of their race, color, religion, or national origin who attend public schools or colleges, participate in State or local government programs or facilities, apply for and enjoy private or State employment, serve as State jurors, use the facilities of interstate commerce, or patronize enumerated places of public accommodation; (4) persons who afford others opportunity to participate in the activities listed above; (5) persons not participating, for the purpose of intimidating those who are participating, in the above-mentioned activities; and (6) persons participating in a speech or peaceful assembly opposing denial of opportunity to participate in these activities.

Bureau Classification 44
Manual of Instructions

Volume II, Section 27

CRIMES ON GOVERNMENT RESERVATIONS

18 U.S.C. 13. Laws of States Adopted for Areas within Federal Jurisdiction

Makes the criminal law on a government reservation conform to local law except when a particular act has been defined as a federal offense.

18 U.S.C. 81. Arson within Special Maritime and Territorial Jurisdiction

Penalizes anyone who, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously attempts to, or sets fire to or burns any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping.

Penalty is increased if the building is a dwelling or if the life of any person is placed in jeopardy.

Bureau Classification 70
Manual of Instructions

Volume II, Section 33

DESECRATION OF U. S. FLAG

18 U.S.C. 700. Desecration of The Flag of the United States

Prohibits anyone from knowingly casting contempt upon the United States flag, standard, colors, ensign, or any picture or representation of either by publicly mutilating, defacing, defiling, burning, or trampling upon it.

Bureau Classification 180
Manual of Instructions

Volume IV, Section 138

DESTRUCTION OF GOVERNMENT PROPERTY

18 U.S.C. 1361. Government Property or Contracts

Penalizes anyone who willfully injures or commits any depredation against any property of the United States, or of any department or agency thereof, or any property which has been or is being manufactured or constructed for the United States, or any department or agency thereof.

Bureau Classification 52
Manual of Instructions

Volume II, Section 50

ESPIONAGE

18 U.S.C. 792. Harboring or Concealing Persons

Penalizes anyone who harbors or conceals any person who he knows, has reasonable grounds to believe or suspect, has committed, or is about to commit a violation of the Espionage statute.

18 U.S.C. 793. Gathering, Transmitting, or Losing Defense Information

Prohibits anyone with intent or reason to believe that the U. S. will be injured or a foreign nation will be given an advantage thereby from:

- (a) Obtaining information concerning facilities, equipment, etc., related to the national defense;
- (b) Obtaining enumerated items, e.g., copies, sketches, photographs, etc., of anything connected with the national defense.
- (c) Receiving, obtaining, or agreeing to obtain enumerated items, e.g., documents, code books, etc., related to the national defense.
- (d) Willfully making available items related to the national defense by one lawfully entitled to have access to them to one not authorized to receive them, or to willfully keep such items from one entitled to receive them.
- (e) Willfully making available items related to the national defense by one whose access to such items is unauthorized to one not authorized to receive them, or to willfully keep such items from one entitled to receive them.
- (f) Allowing items related to the national defense in his lawful custody to be removed, lost, destroyed, etc., or fails to report such occurrence.
- (g) Conspiring to violate the above provisions.

18 U.S.C. . 794. Gathering or Delivering Defense Information to Aid Foreign Government

Penalizes anyone who with intent or reason to believe that it is to be used to the injury of the United States or advantage of a foreign nation attempts to or transmits to any foreign power any of the enumerated items including any document, writing, note or information relating to the national defense.

Penalizes anyone, who in time or war, with intent that it shall be communicated to the enemy, collects, records, publishes or communicates or attempts to gather any information regarding the Armed Forces, or information relating to the national defense which might be useful to the enemy.

18 U.S.C. 795. Photographing and Sketching Defense Installations

Prohibits the making of any photograph, sketch, picture, drawing, map, or graphical representation of military and naval installations and equipment designated by the President as requiring protection from general dissemination.

18 U.S.C. 796. Use of Aircraft for Photographing Defense Installations

Penalizes the use of aircraft for the activities enumerated in 18 U.S.C. 795.

18 U.S.C. 797. Publication and Sale of Photographs of Defense Installations

Prohibits the reproduction, publication, sale or giving away of any photograph, sketch, or other graphical representation of any military or naval installation or equipment defined by the President as requiring protection against general dissemination of information.

18 U.S.C. 798. Disclosure of Classified Information

Penalizes anyone who knowingly and willfully communicates, furnishes, transmits or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the United States' interest or safety or, uses for the benefit of a foreign government any classified information concerning communication systems or intelligence.

18 U.S.C. 799. Violation of Regulations of National Aeronautics and Space Administration

Penalizes any conspiracy to violate or any violation of any regulations or orders of the National Aeronautics and Space Administration for the protection or security of any laboratory, station, base or facility or part of any of these, or any aircraft, missile, spacecraft or similar vehicle or part of any of these or any property or equipment of this agency or any real or personal property, or equipment held by a contractor under a contract with the National Aeronautics and Space Administration.

50 U.S.C. 783. Conspiracy or Attempt to Establish Totalitarian Dictatorship

Prohibits:

(a) Any act which would substantially contribute to the establishment within the United States of a totalitarian dictatorship which would be under the direction, control, or domination of any foreign government, organization or individual.

(b) Any United States employee from communicating any classified information affecting the security of the United States to a person who is known to be a representative of foreign government or an officer or member of a Communist organization.

(c) Any agent or representative of a foreign government or member or officer of a Communist organization from knowingly attempting to or obtaining or receiving any classified information affecting the security of the United States from any United States government employee.

Bureau Classification 65
Manual of Instructions

Volume II, Section 36

FIREARMS ACTS

National Firearms Act

26 U.S.C. 5812. Transfers

The transfer of a firearm requires a written application to the Secretary of the Treasury for the transfer and registration to the transferee. The application must contain identification of the transferor, transferee, and firearm involved.

26 U.S.C. 5822. Making Firearms

Requires that any prospective maker of a firearm must file with the Secretary of the Treasury a written application indicating his intent to make a firearm. The application must contain the identification of the firearm, the identity of the prospective maker including his photograph and fingerprints, the proper stamp showing that the tax imposed by this provision has been paid.

26 U.S.C. 5842. Identification of Firearms, other than Destructive Devices

Manufacturers and importers of firearms other than destructive devices are required to identify such items by serial number or as otherwise prescribed.

26 U.S.C. 5845. Definitions of Various Firearms and Destructive Devices

26 U.S.C. 5861. Prohibited Acts

(a) to engage in business as a manufacturer or importer of, or dealer in firearms without having paid the required tax or having registered as required by this chapter;

(b) to receive or possess a firearm transferred in violation of requirements of this chapter;

(c) to receive or possess a firearm made in violation of this chapter;

(d) to receive or possess an unregistered firearm;

(e) to transfer a firearm without complying with requirements of this chapter regarding transfer;

(f) to make a firearm without complying with the requirements of this chapter;

(g) to obliterate, remove, change, or alter the serial number or other identification of a firearm required by this chapter;

(h) to receive or possess a firearm having the serial number or other identification required under this chapter obliterated, removed, changed, or altered;

(i) to receive or possess a firearm not identified by a serial number as required;

(j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered according to regulations of this chapter;

(k) to receive or possess a firearm which has been imported or brought into the United States for the use of the United States or any United States department, independent establishment, or agency of the United States, or any State or possession or political subdivision of such State or possession; or for scientific or research purposes; or solely for testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or dealer. Exception: The Secretary of the Treasury may permit the conditional importation or bringing in of a firearm for examination and testing in connection with classifying the firearm;

(l) to make any false entry on any application, return or required record, knowing such entry to be false.

State Firearms Control Assistance Act

This act deals primarily with the interstate transportation of firearms.

18 U.S.C. 921. Definitions of Act Terms

18 U.S.C. 922. (a) Unlawful Acts

(1) Engaging in the business of importing, manufacturing or dealing in firearms or ammunition without a license; shipping, transporting or receipt of any firearm or ammunition in interstate or foreign commerce by an unlicensed person.

(2) Interstate shipment of any firearms or ammunition by a licensee to anyone other than another licensee, with certain exceptions.

(3) Transporting or receiving by a non-licensee in the State of his residence any firearm purchased or obtained by him outside his state.

(4) Transporting destructive devices and National Firearms Act weapons by other than a licensed importer, licensed manufacturer, licensed dealer or licensed collector in interstate or foreign commerce, except as authorized by the Secretary of the Treasury.

(5) Transferring, selling, trading, giving, transporting or delivering a firearm by an unlicensed person to another unlicensed person who resides in another state.

(6) Knowingly making any material false statement or use of any deceitful practice to attempt to or to acquire a firearm or ammunition.

(b) Prohibitions Applicable Only to Licensees

(1) Sale or delivery by a licensee of any firearm, other than a shotgun or a rifle, or ammunition for a firearm other than a shotgun or rifle to anyone less than twenty-one years old.

Sale or delivery by a licensee of any firearm, or ammunition to anyone less than 18 years of age.

(2) Selling or delivering any firearm or ammunition to an unlicensed person if the licensee has reasonable cause to believe the purchase or the possession of the firearm or ammunition would be in violation of State or local law.

(3) Selling a firearm to an out-of-State unlicensed resident except that this section does allow a licensee to sell or deliver a shotgun or rifle to a resident of a State contiguous to the State of the licensee's place of business if the purchaser's State of residence permits such sale or delivery by law and if the sale conforms to the laws of the both States.

(4) Delivering or selling a destructive device or a National Firearms Act weapon to any person unless authorized.

(5) Delivering or selling any firearm or ammunition without making a record of the name, age and residence of the purchaser.

(d) Prohibits a licensee from selling or otherwise disposing of any firearm or ammunition to any person who:

(1) is under indictment for, or has been convicted of a felony, or;

(2) is a fugitive from justice; or

(3) is an unlawful user of or addicted to marihuana or any depressant or stimulant drug or narcotic drug;

(4) has been adjudicated as a mental defective or has been committed to any mental institution.

(e) ~~Prohibits~~ anyone from knowingly delivering to a common carrier for transportation or shipment in interstate or foreign commerce to other than licensees any container in which there is any firearm or ammunition without furnishing to the carrier written notice that such is being transported or shipped.

This section provides that any passenger who owns or legally possesses a firearm or ammunition transporting such items aboard a common carrier for movement with the passenger in interstate or foreign commerce may deliver such items to the pilot, captain, conductor or operator of the common carrier for the duration of the trip and will thus not be in violation of this section.

(f) ~~Prohibits~~ ^{forbids} any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that its transportation or receipt would be in violation of this statute.

(g), (h) Prohibits the shipping, transporting, or receipt of any firearm or ammunition in interstate or foreign commerce by anyone who;

- (1) is under indictment, or is a felon, or;
- (2) is a fugitive from justice or;
- (3) is an unlawful user of or addicted to marihuana or any depressant or stimulant drug or narcotic drug; or
- (4) has been adjudicated as a mental defective, or who has been committed to a mental institution.

(i) Prohibits anyone from transporting a stolen firearm or ammunition in interstate or foreign commerce knowing or having reasonable cause to believe it was stolen.

(j) Prohibits any person from receiving, concealing, storing, bartering, selling or disposing of any stolen firearm or stolen ammunition or from pledging or accepting as security for a loan any stolen firearm or stolen ammunition, which is moving as or is a part of interstate or foreign commerce, having reasonable cause to believe or knowledge that the firearm or ammunition was stolen.

(k) Prohibits anyone knowingly from transporting, shipping or receiving, in interstate or foreign commerce, any firearm from which the manufacturer's or importer's serial number has been removed, obliterated, or altered.

(l) Prohibits anyone knowingly from importing or bringing into the United States or its possessions any firearms or ammunition in violation of provisions of this chapter, or from knowingly receiving any such firearm or ammunition so imported.

(m) Penalizes any licensee who knowingly makes a false entry in, or fails to make an appropriate entry in, or fails to maintain properly any record he is required to keep under this statute.

18 U.S.C. 924. Contains the Penalty and Forfeiture Provisions of Chapter

18 U.S.C. Appendix 1202 Receipt, Possession, Transportation
of Firearms; Persons Liable;
Penalties for Violations

Prohibits receipt, possession or transportation in commerce or affecting commerce, of any firearm by anyone who has been or is a knowing employee of anyone who has been convicted of a felony, or received a dishonorable discharge from the Armed Forces, or has been adjudged by a United States or State or local court of being mentally incompetent, or has renounced his United States citizenship or is an alien illegally or unlawfully in the United States.

Bureau Classification 4
Manual of Instructions

Volume III, Section 74

FRAUD AGAINST THE GOVERNMENT

18 U.S.C. 1001. Statements or Entries Generally

Provides criminal punishment for anyone who knowingly and willfully falsifies, conceals or covers up by any trick scheme or device a material fact or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing it to contain any false, fictitious or fraudulent statement or entry in any matter within the jurisdiction of the United States Government.

Bureau Classification 46
Manual of Instructions

Volume II, Section 47

INTERSTATE TRAVEL IN AID OF RACKETEERING

18 U.S.C. 1952. Interstate and Foreign Travel or
Transportation in Aid of Racketeering
Enterprises

Penalizes anyone who travels in interstate or foreign commerce or uses any facility in interstate or foreign commerce with intent to (1) distribute the proceeds of any unlawful activity or (2) commit any crime of violence to further any unlawful activity or (3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment or carrying on of any unlawful activity and performs or attempts to perform any of the above-listed activities.

"Unlawful activity" is defined as (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or prostitution offenses in violation of the laws of the State in which they are committed or of the United States or (2) extortion, bribery or arson in violation of the laws of the State in which committed or of the United States.

Bureau Classification 166.
Manual of Instructions

Volume IV, Section 125

LOSS OF UNITED STATES NATIONALITY

8 U.S.C. 1481. Loss of Nationality by Native-born or Naturalized Citizen; Voluntary Action; Burden of Proof; Presumptions

Overt acts which when performed by an American citizen may cause termination of his citizenship:

- (1) obtaining naturalization in a foreign state;
- (2) taking an oath or making a declaration of allegiance to a foreign state;
- (3) serving in the armed forces of a foreign state without specific authorization;
- (4) accepting, serving in, or performing duties of any office, post or employment under the government of a foreign state if he has or acquires the nationality of such state or if an oath, affirmation or declaration of allegiance is required;
- (5) voting in a political election in a foreign state, participating in an election or plebiscite to determine sovereignty over foreign territory or making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign country;
- (6) making, in the United States, a formal written renunciation of nationality when the United States is in a state of war;
- (7) deserting the armed forces of the United States in time of war, if and when convicted by court martial and dismissed by reason of the conviction or dishonorably discharged;
- (8) committing any act of treason against, attempting by force to overthrow, or bearing arms against the United States, violating or conspiring to violate 18 U.S.C. 2383 (Rebellion or Insurrection), willfully performing any act in violation of 18 U.S.C. 2385 (Advocating Overthrow of the Government) violating 18 U.S.C. 2384 (Seditious Conspiracy) by engaging in a conspiracy to overthrow, put down or to destroy by force the Government of the United States, levy war against them, if convicted by a court martial or court or competent jurisdiction.

(9) departing from or remaining outside the jurisdiction of the United States in time of war or national emergency to evade U.S. military service.

8 U.S.C. 1482. Dual Nationals; Divestiture of Nationality

Provides that persons who at birth acquired dual nationality of the United States and of a foreign state, having claimed benefits of foreign nationality and having continuous residence of three years in the foreign state after he becomes twenty-two years of age loses U. S. citizenship unless during that three-year period of residence he takes oath of allegiance to the United States.

8 U.S.C. 1483. Restrictions on Expatriation

Provides that any national who within six months of his eighteenth birthday claims United States nationality in the appropriate manner even though he may have committed any of the acts outlined above which expatriate a national prior to his eighteenth birthday shall not be deemed to have expatriated himself.

8 U.S.C. 1485,6. Inapplicability of Section 1484 to Certain Persons

Sets forth those situations wherein a United States national does not lose his nationality although he has had extended residence abroad. Such situations include e.g., residence abroad because of employment by the United States Government; residence abroad representing a bona fide American organization; ill health, etc.

NEUTRALITY MATTERS

22 U.S.C. 1934. Munitions Control

This act, commonly known as Munitions Control Act, and regulations issued thereunder provide all persons engaged in manufacture, importation, or exportation of arms, ammunition, or implements of war must register with Department of State and secure a license from State Department to import or export these items.

22 U.S.C. 401. Illegal Exportation of War Materials - Seizure and Forfeiture of Materials and Carriers

Provides for the seizure of war materials or any vessel, vehicle or aircraft containing war materials, whenever there is probable cause to believe there is an attempt to export such items or they are intended to be or have been exported in violation of law. Such materials seized under this provision shall be forfeited.

Bureau Classification 2
Manual of Instructions

Volume III, Section 75

PRIVATE CORRESPONDENCE WITH FOREIGN GOVERNMENTS (THE LOGAN ACT)

18 U.S.C. 953. Private Correspondence with Foreign Governments (The Logan Act)

Penalizes any citizen of the United States who directly or indirectly communicates or carries on any correspondence or intercourse with any foreign government or its officer or agent with the intent to influence the measures or conduct of any foreign government or its officers or agents regarding any disputes or controversies with the United States or to defeat United States measures.

PROTECTION OF FOREIGN OFFICIALS AND OFFICIAL GUESTS OF THE UNITED STATES

This legislation provides the United States with concurrent jurisdiction with that of the States when certain prohibited acts are committed.

18 U.S.C. 1116. Murder or Manslaughter of Foreign Officials
or Official Guests

Makes murder or manslaughter of a foreign official, a member of his family, or an official guest a Federal offense.

18 U.S.C. 1201. Kidnaping

Makes the kidnaping of and conspiracy to kidnap a foreign official, a member of his family, or an official guest, a Federal felony.

Note: Federal jurisdiction arises immediately in the kidnaping of a foreign official or official guest. The victim need not be transported in interstate or foreign commerce.

18 U.S.C. 112. Protection of Foreign Officials and Official
Guests

(a) Penalizes anyone who assaults, strikes, wounds, imprisons, makes an offer of violence to any foreign official, or official guest.

(b) Penalizes anyone who willfully intimidates, coerces, threatens, or harasses a foreign official or an official guest or willfully obstructs a foreign official in the performance of his duties.

(c) Outside the District of Columbia, prohibits anyone from, within 100 feet of a foreign or international establishment or the residence of a foreign official, parading, picketing, displaying any flag, banner, sign, placard, or device, uttering any word, phrase, sound or noise for the purpose of intimidating; coercing; threatening; or harassing any foreign official or obstructing a foreign official in the performance of his duties.

18 U.S.C. 970. Protection of Property Occupied by Foreign Governments and International Organizations

Prohibits anyone from injuring, damaging, destroying, or attempting to injure, damage or destroy any real or personal property belonging to, utilized by, or occupied by a foreign government, international organization, foreign official or official guest.

Bureau Classification 185
Manual of Instructions

Volume IV, Section 146

PROTECTION OF UNITED STATES OFFICIALS
AND EMPLOYEES

18 U.S.C. 111. Assaulting, Resisting or Impeding Certain Officers and Employees

Penalizes anyone who forcibly assaults, resists, opposes, impedes, intimidates or interferes with specified United States Governmental officials who are engaged in or on account of ~~his~~ performance of official duties. Use of a deadly or dangerous weapon in the commission of any of the above acts increases the penalty.

18 U.S.C. 1114. Protection of Officers and Employees of the United States

This statute makes the killing of various enumerated Federal officers and employees a federal offense. Generally officers or employees covered are those engaged in the performance of investigative, inspection or law enforcement functions and includes United States judges, United States Attorneys, Assistant United States Attorneys, United States Marshals and Deputy Marshals, Federal Bureau of Investigation officers or employees.

The provisions of this law require that the attack occur while the victim is engaged in, or be on account of, the performance of his official duties. However, the official status of the victim is merely the basis on which Federal jurisdiction is asserted. Knowledge of the official status of the victim is not an element of the offense itself.

18 U.S.C. 2231. Assault or Resistance

Makes it a federal offense to forcibly assault, resist, oppose, prevent, impede, intimidate or interfere with any person authorized to serve or execute search warrants or to make searches and seizures while engaged in the performance of his duties or on account of his performance of such duties. Use of any deadly or dangerous weapon increases the penalty of fine and imprisonment.

18 U.S.C. 351. Congressional Assassination, Kidnaping, and Assault

Penalizes the killing, kidnaping or assaulting of a Member of Congress or Member-of-Congress-Elect and attempts to or conspiracies to commit above offenses.

Does not require that the offense occur while the victim is engaged in or be on account of the performance of his official duties.

Bureau Classification 89
Manual of Instructions

Volume II, Section 18

18 U.S.C. 1751. Presidential Assassination, Kidnaping, and Assault

Makes it a federal offense to attempt or to conspire to assault, or to kill or kidnap the President of the United States, the President-elect, the Vice President, the officer next in order of succession to the office of President, the Vice President-elect, or any individual who is acting as President under the Constitution and laws of the United States.

Bureau Classification 175
Manual of Instructions

Volume IV, Section 134

REGISTRATION ACTS

18 U.S.C. 951. Agents of Foreign Governments

Requires anyone, other than a diplomatic, or consular officer or attache, who acts in the United States as an agent of a foreign government to notify the United States Secretary of State.

22 U.S.C. 611 - 621. Foreign Agents Registration Act as Amended (The McCormack Act)

Provides that no person shall act as an agent of a foreign principal unless he has filed with the Attorney General a registration statement and supplements as required unless he is exempt from registration.

50 U.S.C. 851 - 858. Registration Act - Individuals with Knowledge of Espionage or Sabotage by Foreign Country

Requires that any person (with certain specified exemptions) who has knowledge of, received instruction or assignment in the espionage, counterespionage, or sabotage

service or tactics of a government of a foreign country or of a foreign political party, shall register with the Attorney General a registration statement containing information which the Attorney General may prescribe.

Bureau Classification 97
Manual of Instructions

Volume III, Section 84

18 U.S.C. 2386. Registration of Certain Organizations

The following organizations shall be required to register with the U. S. Attorney General:

Every organization subject to foreign control which engages in political activity;

Every organization which engages both in civilian military activity and in political activity;

Every organization subject to foreign control which engages in civilian military activity; and

Every organization, the purpose or aim of which, or one of the purposes or aims of which, is the establishment, control, conduct, seizure, or overthrow of a government or subdivision thereof by use of force, violence, military measures, or threats of any one of more of the foregoing.

SABOTAGE

18 U.S.C.. 2152. Fortifications, Harbor Defenses, or Defensive Sea Areas

(a) Penalizes anyone who willfully trespasses upon, injures, or destroys any of the works, property or material of any submarine mine, torpedo, fortification or harbor-defense system of the United States;

(b) Penalizes willful interference with the operation or use of any such submarine mine, torpedo, fortification or harbor-defense system;

(c) Penalizes anyone who knowingly, willfully or wantonly violates any Presidential order or regulation governing persons or vessels within defensive sea areas designated by the President.

The following statutes ^{prohibit} anyone, who during time of war or national emergency, with intent to or reason to believe his act may injure, interfere with or obstruct, the United States or an associate nation:

18 U.S.C. 2153. Destruction of War Material, War Premises, or War Utilities

Attempts to or willfully injures, destroys, contaminates, infects any war material, war premises or war utilities.

18 U.S.C. 2154. Production of Defective War Material, War Premises, or War Utilities

Attempts to or willfully makes, constructs, or causes to be made or constructed in a defective manner any war material, war premises or war utilities, or tool, implement, machine, utensil or receptacle used in the production or repair of such items.

An act by any conspirator to effect the object of a conspiracy to commit the above violations subjects all conspirators to liability.

Strategic Facilities

The following statutes prohibit anyone, with intent to injure, interfere with or obstruct the national defense of the United States, from doing any of the actions cited:

18 U.S.C. 2155. Destruction of National-Defense Materials,
National-Defense Premises, or National-
Defense Utilities

Attempts to or willfully injures, destroys, contaminates or infects any national-defense material, national-defense premises or national-defense utilities.

18 U.S.C. 2156. Production of Defective National-Defense
Material, National-Defense Premises or
National-Defense Utilities

Attempts to or willfully makes or constructs, in a defective manner, any national-defense material, national-defense premises or national-defense utilities or any tool, implement, machine, utensil, or receptacle used in the production of such items.

An act by any conspirator to effect the object of a conspiracy to commit the above violations subjects all conspirators to liability.

50 U.S.C. 797. Security Regulations and Orders

Prohibits willful violation of regulation or order promulgated or approved by Secretary of Defense or military commander designated by him for protection of property and places subject to jurisdiction of Department of Defense, its subagencies, or officer or employee of that Department.

Bureau Classification 98
Manual of Instructions

Volume III, Section 86

SEDITION

18 U.S.C. 2387. Activities Affecting Armed Forces Generally

Penalizes anyone who with intent to interfere with the armed forces of the United States advises, counsels, urges or causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty by any member of the armed forces or distributes or attempts to distribute any written or printed matter which counsels insubordination or refusal of duty.

18 U.S.C. 2388. Activities Affecting Armed Forces During War

Penalizes anyone who when the United States is at war willfully makes or conveys false reports or statements with intention of interfering with successful operation of the armed forces of the United States or promoting the success of its enemies or willfully causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty in the armed forces of the United States or willfully obstructs or attempts to obstruct the recruiting or enlistment service of the United States or harbors or conceals any person who he knows or has reasonable grounds to believe has violated or is about to violate any provision of this subsection.

Penalizes each of the parties to a conspiracy if two or more persons conspire to violate this subsection and one or more such persons act to effect the object of the conspiracy.

Bureau Classification 14
Manual of Instructions

Volume III, Section 88

18 U.S.C. 2389. Recruiting for Service Against the United States

Penalizes anyone who recruits soldiers or sailors within the United States or areas within its jurisdiction to engage in armed hostility against the United States or opens a recruiting station for enlistment of soldiers and sailors to serve in any manner in armed hostility against the United States.

Bureau Classification 61
Manual of Instructions

Volume IV, Section 95

18 U.S.C. 2390. Enlistment to Serve Against the United States

Penalizes anyone who enlists or is engaged within the United States or in any place subject to the jurisdiction of the United States with the intent to serve in armed hostility against the United States.

1 - Mr. W. M. Felt 1 - Mr. I. W. Conrad 1 - Mr. W. B. Soyars
 1 - Mr. R. J. Baker 1 - Mr. R. E. Gebhardt 1 - Mr. F. D. Thompson
 1 - Mr. N. P. Callahan 1 - Mr. T. J. Jenkins 1 - Mr. L. M. Walters
 1 - Mr. W. V. Cleveland 1 - Mr. J. W. Marshall 1 - Mr. J. E. Reilly

CODE

TELETYPE

URGENT

TO: ALL SACS

6/7/73

FROM: ACTING DIRECTOR, FBI

1 - Mr. E. S. Miller
 1 - Mr. H. A. Newmann
 1 - Mr. R. D. Cotter

SECTION 87, MANUAL OF INSTRUCTIONS.

BY SEPARATE COVER EACH OFFICE IS BEING FURNISHED COMPLETE
 REVISION OF SECTION 87. REVISED VERSION INCLUDES FOLLOWING PRINCIPAL
 CHANGES:

(1) TITLE OF SECTION HAS BEEN CHANGED TO "INVESTIGATIONS OF
 SUBVERSIVE ORGANIZATIONS AND INDIVIDUALS." TERM "SECURITY INVESTIGA-
 TIONS" IS INDEFINITE WHEREAS NEW TITLE BETTER CONVEYS PURPOSE -- THAT
 INVESTIGATIONS COVERED UNDER THIS SECTION ARE DIRECTED AT PARTICULAR
 TYPE OF ACTIVITY (OVERTHROW OR SUBVERSION OF GOVERNMENT).

(2) CRITERIA HAVE BEEN REVAMPED TO MAKE IT CLEAR OUR INVESTIGA-
 TIONS ARE BASED ON EXISTING LAWS, CHIEF OF WHICH ARE STATUTES DEALING
 WITH REBELLION OR INSURRECTION (TITLE 18, U. S. CODE, SECTION 2583),
 SEDITION CONSPIRACY (TITLE 18, U. S. CODE, SECTION 2584) AND
 ADVOCATING OVERTHROW OF THE GOVERNMENT (TITLE 18, U. S. CODE,
 SECTION 2585).

EX-103

5 JUN 8 1973

(3) RULES COVERING ADMINISTRATIVE INDEX HAVE BEEN UPDATED IN
 LINE WITH CHANGES APPROVED IN SEPTEMBER, 1972. INFLUENCE OF ADEX
 PROGRAM AS CONTROLLING FACTOR IN INVESTIGATIONS HAS BEEN ELIMINATED.

RDC:was (17)

SEE NOTE PAGE THREE

FEDERAL BUREAU OF INVESTIGATION
 COMMUNICATIONS SECTION

JUN 07 1973 This document is prepared in response to your request and is not for dissemi-
 nation outside your Committee. Its use is limited to official proceedings by
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 nel without the express approval of the FBI.

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 Mintz _____
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 G. Hogan _____

TELETYPE TO ALL SACS
RE: SECTION 87
MANUAL OF INSTRUCTIONS

REVISED CHAPTER STRESSES THAT ADEX IS STRICTLY ADMINISTRATIVE DEVICE AND SHOULD NOT PLAY PART IN INVESTIGATIVE DECISIONS OR POLICIES.

(4) OVEREMPHASIS ON COMMUNIST PARTY WHICH HAS CHARACTERIZED THIS SECTION IN THE PAST HAS BEEN ELIMINATED.

(5) INSTRUCTIONS REGARDING FBI RESPONSIBILITIES AND AGREEMENTS WITH DEFENSE DEPARTMENT AGENCIES REGARDING INDIVIDUALS EMPLOYED AT KEY FACILITIES AND WITH PRIVATE CONTRACTORS HOLDING DEFENSE CONTRACTS ARE BEING INCORPORATED IN SECTION 102 (COORDINATION WITH OTHER GOVERNMENT AGENCIES). THIS WILL BE HANDLED SEPARATELY.

(6) RULE REQUIRING FBIHQ APPROVAL FOR MEMBERS OF OTHER LAW ENFORCEMENT AGENCIES TO ACCOMPANY AGENTS IN HANDLING THESE INVESTIGATIONS IS BEING REVISED TO PROVIDE FOR SAC APPROVAL.

(7) ENTIRE CHAPTER HAS BEEN STREAMLINED AND REORGANIZED AND IS ABOUT ONE THIRD SIZE OF EXISTING SECTION.

CONVERSION TO NEW PROCEDURES WILL INVOLVE MAJOR ADJUSTMENT ON PART OF ALL CONCERNED. ACCORDINGLY, WE ARE ALLOWING INTERIM PERIOD PRIOR TO IMPLEMENTATION OF NEW PROCEDURES DURING WHICH ALL OFFICES WILL HAVE OPPORTUNITY TO REVIEW REVISED SECTION, DISCUSS IT AMONG INTERESTED PERSONNEL, AND RAISE ANY QUESTIONS WHICH NEED TO BE RESOLVED WITH FBIHQ. FIELD SHOULD SUBMIT TO FBIHQ BY 6/15/73 ANY OBSERVATIONS THEY HAVE CONCERNING REVISED SECTION 87. SPECIFIC ATTENTION SHOULD BE CALLED TO ANY OUTSTANDING INSTRUCTIONS WHICH

TELETYPE TO ALL SACS
RE: SECTION 87
MANUAL OF INSTRUCTIONS

APPEAR INCONSISTENT WITH REVISED SECTION. NEW PROCEDURES ARE TO BE FULLY IMPLEMENTED THROUGHOUT FBI AS OF 7/1/73.

IF INVESTIGATIONS NOW PENDING ARE JUDGED, ON REVIEW, NOT TO MEET CRITERIA OUTLINED IN REVISED SECTION, FIELD SHOULD TAKE LOGICAL ACTION TO CLOSE INVESTIGATION. WHERE FBIHQ IS COGNIZANT OF CASE, CLOSING COMMUNICATION SHOULD BE SUBMITTED ON UACB BASIS AND AUXILIARY OFFICES NOTIFIED. ANY SIGNIFICANT INFORMATION WHICH HAS BEEN DEVELOPED WHICH HAS NOT YET BEEN REPORTED SHOULD BE INCORPORATED IN LHM OR REPORT FOR DISSEMINATION.

IT IS NOT DESIRED THAT MASSIVE REVIEW ON CRASH BASIS BE UNDERTAKEN OF ALL SECURITY CASES TO DETERMINE WHETHER THEY MEET NEW CRITERIA. CASES SHOULD BE REVIEWED ON SYSTEMATIC BASIS IN LINE WITH EXISTING ADMINISTRATIVE TICKLERS.

ADDITIONAL COPIES TO MEET OFFICE NEEDS MAY BE MADE OF ADVANCE COPY OF SECTION 87 BEING SENT SEPARATELY. HOWEVER, ALL COPIES SHOULD BE AFFORDED SAME SECURITY AS PROVIDED REGULAR BUREAU MANUALS AND UPON RECEIPT OF FINISHED MANUAL PAGES, THESE COPIES SHOULD BE DESTROYED.

NOTE:

Approval for revised Section 87 was obtained pursuant to memorandum Miller to Felt, 5/22/73. Training Division is expediting preparation of revised manual pages but in the meantime we are providing field with typed copies for review and study.

Airtel

To: SAC, Albany

From: Acting Director, FBI

SECTION 87
SECTION 122
MANUAL OF INSTRUCTIONS

ReButels 6/7/73.

1-Mr. Baker
1-Mr. Callahan
1-Mr. Cleveland
1-Mr. Conrad
1-Mr. Gebhardt
1-Mr. Jenkins
1-Mr. Marshall
1-Mr. Soyars
1-Mr. Thompson
1-Mr. Walters
1-Mr. Miller
1-Mr. Reilly
1-Mr. Newmann
1-Mr. Cotter

6/21/73

PERSONAL ATTENTION

FBIHQ appreciates responses to reButels made by various field offices, including pinpointing of areas of possible misunderstanding. Any additional observations regarding the pending changes in our procedures will be welcomed. It is suggested, however, that comments be focused on regulations which have been revised in the new manual chapters rather than on those which have been in effect for a number of years.

In some instances, field offices have misinterpreted certain portions of the new manual chapters. In addition, a number of specific questions have been raised regarding manual provisions. Accordingly, and in order to insure a smooth transition to the new rules, implementation of these revised procedures is being deferred. Additional instructional material is currently being prepared at FBIHQ to provide field with necessary background information as to underlying basis for these changes and also in response to the particular questions raised. This additional data should be in your hands in early July and implementation of new regulations is postponed until 8/1/73.

EX-104 REC-34 66-143-8125

In addition, FBIHQ is planning to hold a series of regional conferences at which field supervisory personnel can discuss the revised manual sections with FBIHQ representatives. Further information regarding these conferences will be provided at a later date.

2 - All Field Offices

7 JUN 22 1973

NOTE: We originally planned to place new procedures in effect concerning Sections 87 and 122 on 7/1/73. However, responses from some field offices have indicated a misunderstanding of new approach and, in addition, a number of specific questions have been raised by the field (many dealing with procedures which have not been changed). We are deferring implementation of new regulations until after we have resolved questions raised by field and held regional conferences to insure full understanding on part of field. Specific recommendations regarding regional conferences (attendees, sites, dates, etc.) will be submitted in separate memo.

RDC:nlb (155)

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MAIL ROOM

TELETYPE UNIT

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. E. S. Miller

FROM : R. D. Cotter

Supervision - S.M.

SUBJECT: SUBVERSIVE AND EXTREMIST INVESTIGATIONS
SECTIONS 87 AND 122, MANUAL OF INSTRUCTIONS

1 - Mr. N. P. Callahan
1 - Mr. E. S. Miller
1 - Mr. T. J. Smith

DATE: 7/2/73

1 - Mr. E. L. Schroeder
1 - Mr. H. A. Newman, Jr.
1 - Mr. R. D. Cotter

Mr. Felt _____
Mr. Baker _____
Mr. Callahan _____
Mr. Cleveland _____
Mr. Conrad _____
Mr. Gebhardt _____
Mr. Jenkins _____
Mr. Marshall _____
Mr. Miller, E.S. _____
Mr. Soyars _____
Mr. Thompson _____
Mr. Walters _____
Tele. Room _____
Mr. Baise _____
Mr. Barnes _____
Mr. Bowers _____
Mr. Herington _____
Mr. Conmy _____
Mr. Mintz _____
Mr. Eardley _____
Mrs. Hogan _____

Prior memoranda have outlined substantial changes being made in our procedures governing the investigations of subversive and extremist organizations and individuals. This includes a complete revamping of Sections 87 and 122 of the Manual of Instructions which relate to these types of cases. The new procedures will take effect 8/1/73 throughout the field. As indicated in prior communications, we plan to hold a series of regional conferences so that all concerned fully understand the new policies and to insure a smooth transition to the new system.

We have worked up a schedule of six regional conferences to be held in Washington Field Office, New York, San Francisco, Chicago, Dallas, and Atlanta during the period July 6 through July 18, 1973. We plan to have representatives attend from all field offices with the exception of Anchorage and Honolulu. Attendance will be limited to Special Agents in Charge, Assistant Special Agents in Charge, or full-time Security Supervisors.* Smaller offices will be limited to one representative but larger offices will be allowed to send two. Of course, the host office will be able to have all interested Supervisors attend.

Four representatives of Intelligence Division will handle these conferences, as follows: Section Chief T. J. Smith and SA Emil Shroeder will handle conferences in San Francisco on July 16 and in Dallas on July 18, whereas SAs R. D. Cotter and Homer J. Newman, Jr. will handle conferences in Chicago and Atlanta on the same dates. All four men will take part in the first two conferences in Washington Field Office on July 5 and New York Office on July 10.

* Or in absence of full-time supervisor, an approved relief supervisor

RDC:jlc

EX-109

REC-62

1539

ENCLOSURE

59 JUL 27 1973

XEROX
JUL 20 1973

CONTINUED - OVER

9 JUL 12 1973

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UNRECORDED COPY FILED IN

Memorandum to Mr. E. S. Miller
Re: Subversive and Extremist Investigations
Sections 87 and 122, Manual of Instructions

A detailed schedule is attached showing the locations and dates of the six conferences along with the offices assigned to each.

ACTION

Attached is airtel to all offices furnishing pertinent information concerning the forthcoming conferences. Offices scheduled to attend the July 5 conference at Washington Field Office will be telephonically advised in order to insure they have sufficient notice.

Em/ward

wkw/TJS

*MPK
Joo*

CONTINUED - OVER

SCHEDULE FOR FIELD CONFERENCES

Thursday, July 5

Washington Field Office
Alexandria
Baltimore
Norfolk
Richmond

Tuesday, July 10

New York
Albany
Boston
Buffalo
New Haven
Newark
Philadelphia
Pittsburgh

Monday, July 16

San Francisco
Butte
Las Vegas
Los Angeles
Phoenix
Portland
Sacramento
Salt Lake City
San Diego
Seattle

Chicago
Cincinnati
Cleveland
Detroit
Indianapolis
Milwaukee
Minneapolis
Omaha
St. Louis
Springfield

Wednesday, July 18

Atlanta
Birmingham
Charlotte
Columbia
Jacksonville
Knoxville
Louisville
Memphis
Mobile
Miami
Savannah
Tampa
San Juan

Dallas
Albuquerque
Denver
El Paso
Houston
Jackson
Kansas City
Little Rock
New Orleans
Oklahoma City
San Antonio

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JUL 20 1973

100-00-1539

Airtel

To: SAC, Albany

7/3/73

From: Acting Director, FBI

PERSONAL ATTENTION

SUBVERSIVE AND EXTREMIST INVESTIGATIONS
SECTIONS 87 AND 122, MANUAL OF INSTRUCTIONS

0 Sup - S.M.

Attached for each office are two copies of schedule showing dates, locations, and offices scheduled to attend a series of regional conferences at Washington Field Office, New York, San Francisco, Chicago, Atlanta, and Dallas.

With exceptions noted below regarding larger offices, each office should designate one representative to attend. Preferably, this should be a full-time supervisor handling work involved, or in his absence, an approved relief supervisor. Offices which do not have full-time security supervisors may, however, designate an SAC or ASAC if desired. The following offices should designate two representatives: Baltimore, Boston, Newark, Philadelphia, Los Angeles, Seattle, and Detroit. In addition, host offices may designate as many representatives as they deem desirable.

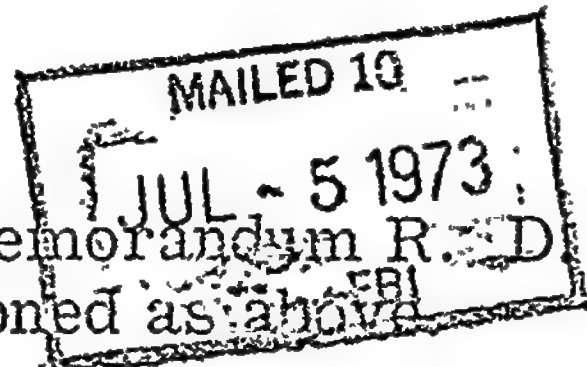
Attendees should be prepared to frankly discuss implementation of revised policies and procedures covering Sections 87 and 122, particularly any problems which are anticipated. Conferences will begin at 9:30 a.m. on the dates indicated and will be limited to one day.

Enclosures (2)

2 - All Field Offices - Enclosures (2)

RDC:jlc JLC
(125)

NOTE: See memorandum RDC Cotter to Mr. Miller dated 7/2/73 captioned as above



ST-105

Mr. Felt _____
Mr. Baker _____
Mr. Callahan _____
Mr. Cleveland _____
Mr. Conrad _____
Mr. Gebhardt _____
Mr. Jenkins _____
Mr. Marshall _____
Mr. Miller, E.S. _____
Mr. Soyars _____
Mr. Thompson _____
Mr. Walters _____
Tele. Room _____
Mr. Baise _____
Mr. Barnes _____
Mr. Bowers _____
Mr. Herington _____
Mr. Conmy _____
Mr. Mintz _____
Mr. Eardley _____
Mrs. Hogan _____

COTTER
1024
JUL 5 1973

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Airtel

To: AC, Albany

From: Director, FBI

SECTIONS 87 AND 122

MANUAL OF INSTRUCTIONS

SUBVERSIVE AND EXTREMIST INVESTIGATIONS

1-Mr. Thompson

1-Mr. Jenkins

1-Mr. Walsh

1-Mr. Marshall

1-Mr. Miller

1-Mr. Gebhardt

1-Mr. White

1-Mr. Cleveland

1-Mr. Jacobson

1-Mr. Cotter

1-Mr. Shackelford

(Attn: Mr. Schroeder)

8/3/73

1-Mr. Cregar

1-Mr. George Moore

(Attn: Mr. Newman)

1-Mr. Campbell

1-Mr. Baker

In connection with the various letters being directed by FBIHQ to all offices under individual organization captions which set out the suggested predications to be used in the future, the following instructions apply.

The field may reproduce these letters as required to facilitate distribution within their offices and notification to all interested personnel. They should, of course, be treated as sensitive material in any distribution to Resident Agencies.

Based upon results of recent regional field conferences and further consideration by FBIHQ, it has been decided that a predication for investigation need not be included in material prepared for dissemination (letterhead memoranda or report) with respect to on-going investigations which were pending before 8/1/73 and concerning which information has already been reported in a form suitable for dissemination. However, in such cases an appropriate predication must be shown in the first intraoffice communication prepared after 8/1/73 and in the first intraBureau communication prepared after 8/1/73 which is directed to FBIHQ. This would include the administrative pages of reports or communications covering letterhead memoranda.

For example, if pending case exists on a subject as of 8/1/73 and information concerning such subject has already been disseminated either by report or LHM, subsequent LHMs or reports prepared after 8/1/73 need not include a statutory predication. However, if a case is pending as of 8/1/73 and no prior outside dissemination has been made by LHM or report, the first such LHM or report prepared after 8/1/73 should include a statutory basis. In either event, the first intraoffice communication prepared after 8/1/73 should show the statutory

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RDC:nlb (138)

MAILED 22

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FBI

6 AUG 4 1973

SEE NOTE PAGE 2

2-All Field Offices

Files & Com.

Gen. Inv.

Ident.

Inspection

Intell.

Laboratory

Plan. & Eval.

Spec. Inv.

Training

Legal Coun.

Cong. Serv.

Corr. & Crm.

Research

Press Off.

Telephone Rm.

Director Sec'y

NW 55165

DocId:32989586

Page 156

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Airtel to Albany
SECTIONS 87 AND 122
MANUAL OF INSTRUCTIONS
SUBVERSIVE AND EXTREMIST INVESTIGATIONS

basis as should the first intraBureau communication, copies of which are being directed to FBIHQ.

Advise FBIHQ if you have any questions concerning the foregoing instructions.

NOTE: We recently conducted a series of regional field conferences concerning the revised policies and procedures governing our investigations of subversives and extremists covered by Sections 87 and 122 of Manual of Instructions. During these conferences the field pointed to the necessity for reproduction of copies of the all-office letters being sent out from FBIHQ concerning various organizations. In addition, it was agreed that the rules on predications with respect to existing cases should be applied as is indicated herein.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Miller

DATE: 8/3/73

FROM : Mr. D. Cotter

SUBJECT: SECTION 87
MANUAL OF INSTRUCTIONS

SUPERVISORY SECURITY MATTER

Assoc. Dir. _____
Asst. Dir.: _____
Admin. _____
Comp. Syst. _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Cong. Serv. _____
Corr. & Crm. _____
Research _____
Press Off. _____
Telephone Rm. _____
Director Sec'y _____

During recent regional conferences with supervisory personnel from field offices, we discussed new procedures governing investigations of subversive and extremist elements and a number of suggestions were made for minor modifications. After careful consideration, it is believed the following modifications should be made:

- 1 - Requirement that a statutory predication for each investigation be shown on the first communication prepared (intraoffice memorandum, letter, airtel, etc.) should be modified since there will be occasions where preliminary inquiries will have to be undertaken before it is known whether a statutory basis for investigation exists. This is particularly true with regard to individuals identified as being in contact with known subversive groups or subjects, where the purpose of the contact is not initially known. Accordingly, we should modify the regulation to require that a statutory basis be shown in the first communication prepared for outside dissemination (letterhead memorandum or report) but that it need not be shown in strictly internal communications for a period not to exceed 90 days. This will allow time for preliminary inquiries to be conducted through established sources to determine whether or not a statutory basis for a full investigation exists.
- 2 - With respect to developing background information concerning a subversive subject, it is believed we should include a sentence indicating that where practicable, the field should endeavor to verify the subject's date and place of birth through appropriate bureau of vital statistics or birth registrar.

REC 68 100-10-1549

Enclosure

- 1-Mr. Miller
- 1-Mr. Callahan
- 1-Training Division (Attn: Mr. Reilly)
- 1-Mr. T. J. Smith
- 1-Mr. George Moore (Attn: Mr. Newman)
- 1-Mr. Shackelford (Attn: Mr. Schroeder)
- 1-Mr. Cregar

20 AUG 17 1973

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Unrecorded and filed

Memorandum to Mr. Miller
Re: SECTION 87
MANUAL OF INSTRUCTIONS

- 3 - Regarding interviews of subversive subjects, the Manual now instructs that they should be interviewed in the absence of "exceptional circumstances." Field supervisors made a strong case for relaxing this requirement, especially since there are many subjects who are known to be hostile towards all Government authority where no purpose would be served in seeking to conduct an interview. Accordingly, we are recommending that the instruction be changed so that subjects should be interviewed "unless there is a sound basis for not doing so."
- 4 - Manual now requires FBIHQ approval for interviews of subjects who hold "leadership positions" in a subversive group. The consensus of our recent conferences was this should be eliminated and that the SACs should be allowed to approve such interviews. It was pointed out that the term "leadership position" is vague and unclear and further that, in any case, FBIHQ approval is required whenever subjects are "nationally prominent."
- 5 - Concerning dissemination of information developed it was the consensus of our conferences that mention be made of our responsibility to disseminate pertinent information regarding persons holding clearance with the Armed Forces to the Defense Industrial Security Clearance Office (DISCO).

Memorandum to Mr. Miller
Re: SECTION 87
MANUAL OF INSTRUCTIONS

6 - In order to deal with the problem of field office files building up an accumulation of channelling memoranda and creating space problems, it was decided that we should include some provision for the destruction of such memoranda by the field at the option of the appropriate ^{sec or} supervisor. This can be done through the preparation of an "investigative insert" for later possible inclusion in a letterhead memorandum or report.

7 - It was suggested and agreed upon that the Manual should include brief additional instructions regarding reporting procedures for ADEX (currently dangerous subversives) subjects. This includes the necessity for a summary type report at the time the subject is recommended for inclusion in ADEX and the need to keep FBIHQ periodically advised of investigation of ADEX subjects. These requirements were initially established in September, 1972, at the time our current ADEX policy was initiated.

8 - It was agreed that the period for a preliminary investigation of subversive organizations should be expanded from 45 to 90 days.

ACTION:

Attached is an airtel to all offices dealing with these modifications and instructing that they be put into effect immediately. Manual revisions will be separately submitted.

[Handwritten signature]

WGC

EM

wraw/TSS

[Handwritten signature]

Airtel

1-Mr. Thompson
1-Mr. Jenkins
1-Mr. Walsh
1-Mr. Marshall
1-Mr. Miller
1-Mr. Gebhardt
1-Mr. White
1-Mr. Cleveland
1-Mr. Jacobson
1-Mr. Campbell
1-Mr. Baker

1-Mr. Cotter
1-Mr. Shackelford
(Attn: Mr. Schroeder)

8/8/73

1-Mr. Cregar
1-Mr. George Moore
(Attn: Mr. Newman)

To: SAC, Albany

From: Director, FBI

SECTION 87

MANUAL OF INSTRUCTIONS

SUBVERSIVE INVESTIGATIONS

Based on recent regional field conferences, following modifications are being made in policies and procedures set forth in Section 87:

- 1 - Requirement that statutory predication for each investigation be shown on the first communication prepared is being rescinded. Instead it will be required that a statutory basis be shown in the first communication prepared for outside dissemination (LHM or report); however, it need not be shown in strictly internal communications for a period not to exceed 90 days. This will allow time for preliminary inquiries to be conducted through established sources to determine whether or not a statutory basis for a full investigation exists. This will apply particularly with respect to individuals identified as being in contact with known subversive elements, where the purpose of the contact is not initially known. In the event preliminary inquiries fail to establish a sound basis for investigation, the case should of course be promptly closed and there is no need to advise FBIHQ in such instances. Nor is there any need to prepare an LHM or report in such cases where no pertinent subversive derogatory information has been developed.

- 2 - Where practicable, efforts should be made to verify a subject's date and place of birth through the appropriate bureau of vital statistics or birth registrar.

- 3 - Regarding interviews of subversive subjects, they should be conducted unless there is a sound basis for not doing so.

NOTE: See cover memo R. D. Cotter to Mr. Miller dated 8/3/73 captioned "Section 87, Manual of Instructions," RDC:nlb.

2-All Field Offices

RDC:nlb (138)

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Asst. Dir.:
Admin. _____
Comp. Syst. _____
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Inspection _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Cong. Serv. _____
Corr. & Crm. _____
Research _____
Press Off. _____

Airtel to Albany
SECTION 87
MANUAL OF INSTRUCTIONS
SUBVERSIVE INVESTIGATIONS

- 4 - The requirement that FBIHQ approval be obtained for interviews of subjects who hold "leadership positions" in a subversive group is being deleted.
- 5 - The Bureau's responsibility to disseminate information concerning persons holding clearances with the Armed Forces to the Defense Industrial Security Clearance Office (DISCO) is being added to the Manual.
- 6 - In order to deal with the problem of field office files building up an excessive accumulation of channelling memoranda on subversive subjects, provisions are being made for the destruction of such memoranda following preparation of an "investigative insert" which can be used later, if needed, in preparing reports or LHMs or in transferring the office of origin.
- 7 - The period for a preliminary inquiry concerning a newly formed subversive organization is being expanded from 45 to 90 days.
- 8 - A separate paragraph is being added to that portion of Section 87 which covers the administrative index outlining proper reporting procedures for ADEX cases including the need for a summary type report at the time an individual is recommended for inclusion in ADEX.

Appropriate changes are being made in the Manual with respect to the foregoing modifications. However, these changes should be placed into effect immediately throughout the field. Any questions regarding their implementation should be promptly directed to FBIHQ.